

APPENDIX

TO THE

F. I.

REPORT OF THE BUREAU OF CIVIL SERVICE

FOR THE

YEAR ENDED JUNE 30, 1906

CONTAINING

LAWS RELATING TO THE PHILIPPINE CIVIL SERVICE

CIVIL-SERVICE RULES

EXAMINATION REQUIREMENTS RELATING TO APPOINTMENT AND PROMOTION

FORMS PRESCRIBED BY THE BUREAU OF CIVIL SERVICE

OPINIONS OF THE ATTORNEY-GENERAL

RESOLUTIONS OF THE PHILIPPINE COMMISSION

STATISTICS OF EXAMINATIONS AND APPOINTMENTS

BUREAU OF INSULAR AFFAIRS

WAR DEPARTMENT



WASHINGTON

GOVERNMENT PRINTING OFFICE

1907

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TABLE OF CONTENTS.

APPENDIX.

Laws relating to the Philippine civil service:	Page.
Act No. 5, the civil-service act.....	15
Act No. 25, providing for the appointment and removal of subordinate officers and employees.....	20
Act No. 102, regulating the salaries of officers and employees in the Philippine civil service, extract from	21
Act No. 392, authorizing the employment of persons at salaries lower than those for which appropriation is made, and designating persons authorized to administer oaths for the Bureau of Civil Service	22
Act No. 1040, regulating the hours of labor, leaves of absence, and transportation of officers and employees in the Philippine civil service.....	22
Civil Service rules:	
Rule I. General provisions and definition of terms	26
II. Applications for examination.....	26
III. Examinations	27
IV. Rating of papers and eligibility.....	28
V. Certifications.....	28
VI. Temporary service.....	29
VII. Reinstatements.....	30
VIII. Transfers	31
IX. Promotions	31
X. Appointment and employment	32
XI. Procedure in reductions, separations, and suspensions.....	33
XII. Prohibitions and penalties	34
XIII. Official roster of officers and employees	35
XIV. Employment of semi-skilled and unskilled laborers	35
XV. Hours of labor.....	35
XVI. Leaves of absence.....	36
Examination requirements relating to appointment and promotion	38
Forms prescribed by the Bureau of Civil Service	39
Opinions of the Attorney-General	41
Resolutions of the Philippine Commission	46
Statistics of examinations and appointments.....	48

APPENDIX.

LAWS RELATING TO THE PHILIPPINE CIVIL SERVICE.

[No. 5, as amended by acts Nos. 78, 102, 106, 167, 220, 306, 589, 782, and 1072.]

An act for the establishment and maintenance of an efficient and honest civil service in the Philippine Islands.

By authority of the President of the United States, be it enacted by the United States Philippine Commission, that:

SECTION 1. The civil governor, by and with the advice and consent of the Philippine Commission, shall appoint three persons to be members of a board to be called the Philippine civil service board. The civil governor shall designate one of these appointees as chairman.^a

SEC. 2. No person shall be eligible for appointment as a member of the board unless he shall be a native of the Philippine Islands owing and acknowledging allegiance to the United States.

SEC. 3. (a) The board shall keep an official roster of all officers and employees above the grade of unskilled laborer in the civil service of the Philippine Islands, and for the purpose of this roster each head of a bureau or office shall furnish to the board the necessary information, in such form and manner as it shall prescribe. The roster shall be published at intervals to be fixed by the civil governor.

(b) All heads of bureaus or offices shall cause to be kept an accurate record of the attendance of all officers and employees under them who are entitled to leave of absence provided by law, and shall report to the board, in the form and manner prescribed by it, all absences from duty from any cause whatever. The board shall keep an accurate record of such absences.

SEC. 4. The board shall prepare rules adapted to carry out the purpose of this act, which is hereby declared to be the establishment and maintenance of an efficient and honest civil service in all the executive branches of the government of the Philippine Islands, central, departmental, and provincial, and of the city of Manila, by appointments and promotions, according to merit and by competitive examinations where the same are practicable, and it shall be the duty of all officers in the Philippine civil service in the departments and offices to which any such rules may relate to aid, in all proper ways, in carrying said rules and modifications thereof into effect.

SEC. 5. This act shall apply, except as hereinafter expressly provided, to all appointments of civilians in the bureaus and offices of the government of the Philippine Islands, insular or provincial, or of the city of Manila: *Provided*, That persons appointed by the civil governor, by and with the advice and consent of the Philippine Commission, shall not be included in the classified service unless otherwise specifically provided by law.

SEC. 6. The rules to be prepared and certified by the board shall provide:

(a) For the classification of all offices and employments included in section five.

(b) For the appointment to those offices requiring technical, professional, or scientific knowledge, by competitive or noncompetitive examinations, as the board shall determine.

^a Name and organization changed to bureau of civil service, with one chief and two assistant chiefs, by act No. 1407, enacted October 26, 1905.

(c) For the selection of members of the police force and of the fire department in the city of Manila and of guards at prisons and penitentiaries by competitive or noncompetitive examination, or otherwise, as the board, after consultation with the military governor and his approval, shall determine.

(d) For the selection of skilled workmen by such examinations, competitive or noncompetitive, as may be practicable, and which need not, if the board shall so limit them, relate to more than the capacity of the applicants to labor, their habits of industry and sobriety, and their honesty.

(e) For competitive or noncompetitive promotion examinations, as the board shall determine. In the competition the board may provide, in its discretion, for the allowance of credit to the previous experience and efficiency of the applicant in the civil service of the islands, to be estimated by the officer or officers under whose direction the service has been rendered, under such limitations as the board may prescribe: *Provided*, That such credit shall not be allowed to any applicant who shall not obtain a minimum average percentage to be fixed by the board.

(f) For a period of probation before the appointment or employment is made permanent.

(g) For the preparation and holding in Manila and in the provinces of open competitive examinations of a practical character for testing the fitness of applicants for appointment to the classified service, and for the preparation and the holding of examinations in the United States under the auspices of the United States Civil Service Commission.

(h) For selection, according to average percentage, from among those certified by the board as rated highest in such competition.

(i) For transfers under limitations to be fixed by the rules from one branch of the classified service to another, or from the Federal classified civil service of the United States to the classified service of the Philippine Islands.

(j) For reinstatements in the service under limitations to be fixed by the rules.

(k) For the examination in the Spanish language of all applicants who are citizens of the United States and in the English language of all applicants who are natives of the Philippine Islands, whenever, in the opinion of the board, knowledge of both languages is essential to an efficient discharge of the duties of the positions sought.

(l) For the holding of noncompetitive examinations when applicants fail to compete after due notice has been given of an open competitive examination to fill an existing vacancy.

(m) For a thorough physical examination by a competent physician of every applicant for examination in the United States, and in the discretion of the board in the Philippine Islands, and for rejection of every such applicant found to be physically disqualified for efficient service in the Philippine Islands.

(n) For fixing age limits of applicants for entrance into the classified service.

(o) For eliciting from all applicants for examination full information as to their citizenship, nativity, age, education, physical qualifications, and such other information as may reasonably be required affecting their fitness for the service which they seek to enter.

(p) For the employment of clerks and other employees for temporary service in the absence of available eligibles or when the work is temporary in character: *Provided*, That the temporary employment of any person occupying a permanent position shall cease when the board shall certify an eligible who accepts temporary or probational appointment.

(q) The enumeration herein of the subjects to be covered by the rules of the board shall not be regarded as exclusive, but the board shall have power to prepare and submit to the civil governor for his approval any rules not in violation of the limitations of the act which will more efficiently secure the enforcement of the act.

SEC. 7. The board shall keep minutes of its own proceedings, and on or before the first day of July of each year shall make an annual report to the civil governor and to the Commission showing its proceedings, the rules which have been certified by the board and approved by the civil governor, the practical effect thereof, and suggestions for carrying out more effectually the purpose of this act.

SEC. 8. The board shall supervise the preparation and rating and have control of all examinations in the Philippine Islands under this act. The board may

designate a suitable number of persons in the Philippine civil service to conduct its examinations and to serve as members of examining committees, and when examiners with special, technical, or professional qualifications are required for the preparation or rating of examination papers it may designate competent persons in the service for such special duty, after consultation with the proper officer, or officers, under whom they are serving. The duties required of such persons as members of examining committees, or as special examiners, shall be considered as part of their official duties and shall be performed without extra compensation. When persons can not be found in the Philippine service with the necessary qualifications for special examining work that may be required, the board is authorized to employ at a reasonable compensation persons not in public employment for such work, which compensation shall be paid out of the general funds appropriated for the purposes of the board, on its order.

SEC. 9. The board may make investigations and report upon all matters relating to the enforcement of this act and the rules adopted hereunder, and in making such investigations the board and its duly authorized examiners are empowered to administer oaths, to summon witnesses, and to require the production of official books and records which may be relevant to such investigation.

SEC. 10. The board shall have a permanent office in the city of Manila. When examinations are to be held by the board, either in Manila or in the provinces, officers having the custody of public buildings shall allow their reasonable use for the purpose of holding such examinations.

SEC. 11. The head of each office to which this act applies shall notify the board in writing without delay of all appointments, permanent, temporary, or probational, made in the classified service in his office, of all rejections after the period of probation, and of all transfers, promotions, reductions, resignations, or vacancies from any cause in said service and of the date thereof; and a record of the same shall be kept by the board.

SEC. 12. No person shall be appointed to or employed in the classified civil service of the Philippine Islands or in any of the unclassified positions enumerated in section twenty, except as provided by an appropriation act or a resolution of the Philippine Commission pledging an appropriation, or by a resolution of a provincial board approved by the insular treasurer, passed prior to such appointment or employment. Any person appointed to or employed in the classified service by the head or acting head of a bureau or office in violation of the provisions of the civil service act or rules shall not be entitled to receive salary or wages from the government, but the head or acting head of the bureau or office who signs or makes such appointment or employment shall be personally responsible to him for the salary which would have accrued to him had the appointment or employment been made in accordance with the provisions of the civil service act and rules, and payment shall be made to him out of the salary of the head or acting head of the bureau or office by the disbursing officer. No disbursing officer shall pay any salary or wages to any person appointed to or employed in a classified civil-service position, except from the salary of the head or acting head of the bureau or office, as hereinbefore provided, until proper evidence is furnished him by the head or acting head of the bureau or office that the person has been appointed or employed in accordance with the provisions of the civil service act and rules. When the board shall find that any person is holding a position in the classified civil service in violation of the provisions of the civil service act or rules, it shall certify information of the fact to the auditor and to the disbursing officer through whom the payment of salary or wages to such person is by law required to be made. If the auditor shall find that a disbursing officer has paid or permitted to be paid salary or wages to any person illegally holding a classified position, the whole amount paid shall be disallowed and the disbursing officer shall not receive credit for the same. If the auditor shall find that the head or acting head of a bureau or office is responsible, as above provided, for the payment of salary or wages to such person and that such payment is not due to the failure of the disbursing officer to obtain proper evidence as herein required, the disbursing officer shall be directed to withhold from the salary of such head or acting head of the bureau or office an amount equal to that disallowed by the auditor. A disbursing officer, the head of any department, bureau, or office, or the auditor may apply for and the civil service board shall render a decision upon any question as to whether a position is in the classified or the unclassified civil

service, or whether the appointment of any person to a classified position has been made in accordance with the civil service act and rules, which decision, when rendered, shall be sufficient authority for the auditor in passing upon the account.

SEC. 13. Any person who shall willfully or corruptly, by himself or in cooperation with one or more persons, defeat, deceive, or obstruct any person in the matter of his right of examination by said board, or who shall willfully, corruptly, and falsely rate, grade, estimate, or report upon the examination or standing of any person examined hereunder, or aid in so doing; or who shall willfully and corruptly make any false representations relative thereto or concerning the persons examined; or who shall willfully and corruptly use or furnish any special or secret information for the purpose of improving or injuring the prospects or chances of himself or any other person so examined or to be examined, of being employed, appointed, or promoted, shall for each such offense be punished by a fine not exceeding one thousand dollars or by imprisonment for a period not exceeding one year, or by both such fine and imprisonment.

SEC. 14. Any person who shall willfully and corruptly become the beneficiary of an act in violation of the last preceding section shall be punished as provided in that section.

SEC. 15. No inquiry shall be made and no consideration whatever shall be given to any information relative to the political or religious opinions or affiliations of persons examined or to be examined for entrance into the service, or of officers or employees in the matter of promotion: *Provided, however*, that disloyalty to the United States of America as the supreme authority in these islands shall be a complete disqualification for holding office in the Philippine civil service: *And provided further*, That no person shall be eligible for examination or appointment under the provisions of this act who shall be, on or after the first day of May, nineteen hundred and one, in arms against the authority of the United States in the Philippine Islands, or who shall thereafter give aid and comfort to the enemies of the United States so in arms; this provision shall not apply to those persons who were in arms against the authority and sovereignty of the United States in the Philippine Islands or their aiders or abettors prior to July fourth, nineteen hundred and two, who came within the provisions of the proclamation of amnesty of the President of the United States issued upon said date and who have complied with the terms of said proclamation.

SEC. 16. Every applicant for admission to the Philippine civil service shall, before being admitted to examination in the islands, take and subscribe the following oath before a justice of the peace in and for the province in which he is, or before a member of the civil service board, the members of which are authorized to administer the same.

" OATH OF APPLICANT.

"I, _____, having applied for admission to the civil service of the Philippine Islands, do solemnly swear (or affirm) that I recognize and accept the supreme authority of the United States of America in these islands and will maintain true faith and allegiance thereto; that I will obey the laws, legal orders, and decrees promulgated by its duly constituted authorities; that I impose upon myself this obligation voluntarily, without mental reservation or purpose of evasion. So help me God. (The last four words to be stricken out in case of affirmation.)

(Signature) " _____.

"Subscribed and sworn to (or affirmed) before me this _____ day of _____, 19—.

" _____."

The oath of the applicant shall be filed with the secretary of the board.

SEC. 17. No officer or employee in the Philippine civil service shall, directly or indirectly, give or hand over to any other officer or employee in said service any money or other valuable thing to be applied to the promotion of any political object whatever, and a violation of this section by the receiving officer or employee shall subject the violator to a penalty of not exceeding five hundred dollars or to imprisonment not exceeding six months, or both, and upon conviction he shall be removed from office.

SEC. 18. No person in the Philippine civil service shall be under obligation to contribute to a political fund or to render a political service, or be removed or otherwise prejudiced for refusing to do so. Any person soliciting political

contributions from public officers or employees shall be subject to the same penalties as those provided in the preceding section.

SEC. 19. In the appointment of officers and employees under the provisions of this act the appointing officer in his selection from the list of eligibles to be furnished him by the board shall, where other qualifications are equal, prefer:

First. Natives of the Philippine Islands.

Second. All honorably discharged soldiers, sailors, and marines of the United States.

SEC. 20. The requirements of this act for entrance into the civil service, or for promotion by examination, shall not apply to the selection of the following officers and employees:

1. One private secretary to each member of the Philippine Commission, including the civil governor.

2. Any person in the military or naval service of the United States who may be detailed for the performance of civil duties.

3. Persons employed as semiskilled or unskilled laborers whose rate of compensation is less than three hundred and sixty dollars per annum.

4. All employees whose rate of compensation is one hundred and twenty dollars or less per annum.

5. Postmasters and customs inspectors whose rates of compensation do not exceed three hundred and one hundred and eighty dollars per annum, respectively, who may lawfully perform the duties of postmaster or customs inspector in connection with the other official duties with which they are charged, if they be Government employees, or if not Government employees, in connection with their private business, such duties requiring only a portion of their time.

6. Detectives, secret agents, sheriffs, and deputy sheriffs.

7. Any position in the department of commerce and police the duties of which are of a quasi military or quasi naval character.

8. Chinese and Japanese employees.

SEC. 21. Vacancies in the position of heads and of assistant heads of bureaus or offices and of superintendents shall be filled by promotion, without examination, of persons in the classified service, if competent persons are found in the service who in the judgment of the appointing power are available and possess the qualifications required, the intention of this provision being that the appointing power may, by virtue hereof, select for appointment from the entire classified service the person deemed most competent to fill the vacancy: *Provided, however*, That an examination may be given when requested by the civil governor or proper head of an executive department.

SEC. 22. The persons now employed in the civil service of the Philippine Islands whose positions may be classified by the operation of this act and the rules herein provided for shall, unless dismissed by proper authority, continue in the service and discharge the duties assigned them: *Provided*, That the board may, in its discretion, require by rule that all such employees shall pass examinations practically adapted to show their fitness to fill the positions now held by them, and that in case of failure to pass such examinations to the satisfaction of the board they shall be dismissed from the service.

SEC. 23. The position of teacher in the insular service and in the municipal service of Manila is hereby classified and made subject to all the provisions of the civil service act and rules, and all teachers now serving under regular appointment in the insular service or in the municipal service of Manila are hereby declared to be in the classified service.

SEC. 24. The rules to be prepared and certified by the board shall not take effect until approved by the civil governor, when they shall be promulgated by his executive order.

SEC. 25. After the passage of this act no civilian shall be employed in the offices specified in section five of this act except in accordance with its terms: *Provided*, That between the time of its passage and the date when the board herein created shall officially inform the military governor and the Commission that it is ready to certify a list of persons eligible to appointment under the provisions of this act for any vacancy occurring, appointments for temporary service may be made to fill vacancies or newly created offices to continue until such certification is made and such vacancies can be regularly filled, under the requirements of this act and the rules of the board adopted in accordance herewith. Persons so temporarily appointed may compete in the examinations held for regular entrance to the classified service.

SEC. 26. In this act whenever a sum of money is mentioned it shall be understood to refer to the money of the United States.

SEC. 27. Upon the passage of this act and the appointment and organization of the board, it shall be the duty of the head of each office to which this act applies upon application by the board to certify to the board a complete list of all the officers and employees engaged therein, together with a full statement of the duties performed by them and the compensation received by them.

SEC. 28. No applicants shall be admitted to the competitive examinations to be held under this act who are not either—

- (a) Citizens of the United States; or
- (b) Natives of the Philippine Islands; or
- (c) Persons who have, under and by virtue of the treaty of Paris, acquired the political rights of natives of the Islands; or
- (d) Persons who have taken the oath of allegiance to the United States and served as members of the Army or Navy of the United States and been honorably discharged therefrom.

SEC. 29. This act shall take effect on its passage and shall be referred to as the civil service act.

Enacted, September 19, 1900.

[No. 25, as amended by Acts Nos. 301, 329, 588, and 1096.]

An Act Providing for the appointment and removal of subordinate officers and employees in certain departments and bureaus of the government of the Philippine Islands.

By authority of the President of the United States, be it enacted by the United States Philippine Commission, that:

SECTION 1. All appointments to and removals from subordinate positions in the Philippine civil service in offices or bureaus under the executive control of the secretaries of departments shall be made by the heads of offices or bureaus subject to the approval of the secretary of the department who exercises executive control over the office or bureau in which the appointment or removal is made; appointments to and removals from subordinate positions in all other offices or bureaus in the civil service of the insular government shall be made subject to the approval of the civil governor: *Provided*, That heads of offices and bureaus may employ and discharge unskilled laborers whose employment is authorized by law without the approval of the secretaries of departments or of the civil governor. In case there is no head or acting head of any such office or bureau, or other office or bureau established by law, at the time when appointments to or removals from subordinate positions therein become necessary, such appointments and removals may be made by the secretary of the department under which the office or bureau is established, who shall have direct charge and supervision of such office or bureau, and who, or a person assigned by him for the purpose, shall have authority to make estimates for appropriation, requisitions on the treasurer for money appropriated, and to approve all vouchers for payment.

SEC. 2. For neglect of duty or violation of reasonable office regulations, or in the interests of the public service, heads of bureaus or offices are hereby authorized to reduce the salary or compensation of any subordinate officer or employee, to deduct from his pay a sum not exceeding one month's pay, or to suspend him without pay for a period not exceeding two months: *Provided, however*, That such deduction from pay or such suspension without pay shall receive the approval of the civil governor or the proper head of an executive department, after having been submitted to the civil service board for recommendation: *And provided further*, That any reduction in salary or deduction of pay or any suspension without pay as provided for in this section shall not affect the right of the person thus disciplined to accrued leave of absence, but in the event of his suspension from duty no accrued leave of absence shall be allowed for the time he is thus suspended.

SEC. 3. Nothing herein shall be construed to take any of the appointments to be made to positions described in section one out of the provisions of the civil service act, or to prevent the Commission from revoking action taken under section one, or making appointments to such positions, or from making removals therefrom of its own motion under the general powers conferred upon it by the instructions of the President of the United States.

SEC. 4. This act shall take effect on its passage.

Enacted, October 17, 1900.

[No. 102.]

An Act Regulating the salaries of officers and employees in the Philippine civil service.

By authority of the President of the United States, be it enacted by the United States Philippine Commission, that:

SECTION 1. * * *

SALARY CLASSIFICATION.

The officers and employees in the Philippine civil service, for the purpose of these rules, shall be arranged in the following classes, and, unless otherwise provided by law, it shall be understood that the minimum amount specified for each class indicates the annual salary of each employee in that class:

Class 1: All persons receiving an annual salary of \$3,000 or more, or a compensation at the rate of \$3,000 or more per annum.

Class 2: All persons receiving an annual salary of \$2,750 or more, or a compensation at the rate of \$2,750 or more, but less than \$3,000 per annum.

Class 3: All persons receiving an annual salary of \$2,500 or more, or a compensation at the rate of \$2,500 or more, but less than \$2,750 per annum.

Class 4: All persons receiving an annual salary of \$2,250 or more, or a compensation at the rate of \$2,250 or more, but less than \$2,500 per annum.

Class 5: All persons receiving an annual salary of \$2,000 or more, or a compensation at the rate of \$2,000 or more, but less than \$2,250 per annum.

Class 6: All persons receiving an annual salary of \$1,800 or more, or a compensation at the rate of \$1,800 or more, but less than \$2,000 per annum.

Class 7: All persons receiving an annual salary of \$1,600 or more, or a compensation at the rate of \$1,600 or more, but less than \$1,800 per annum.

Class 8: All persons receiving an annual salary of \$1,400 or more, or a compensation at the rate of \$1,400 or more, but less than \$1,600 per annum.

Class 9: All persons receiving an annual salary of \$1,200 or more, or a compensation at the rate of \$1,200 or more, but less than \$1,400 per annum.

Class 10: All persons receiving an annual salary of \$1,000 or more, or a compensation at the rate of \$1,000 or more, but less than \$1,200 per annum.

Class A: All persons receiving an annual salary of \$900 or more, or a compensation at the rate of \$900 or more, but less than \$1,000 per annum.

Class B: All persons receiving an annual salary of \$840 or more, or a compensation at the rate of \$840 or more, but less than \$900 per annum.

Class C: All persons receiving an annual salary of \$720 or more, or a compensation at the rate of \$720 or more, but less than \$840 per annum.

Class D: All persons receiving an annual salary of \$600 or more, or a compensation at the rate of \$600 or more, but less than \$720 per annum.

Class E: All persons receiving an annual salary of \$540 or more, or a compensation at the rate of \$540 or more, but less than \$600 per annum.

Class F: All persons receiving an annual salary of \$480 or more, or a compensation at the rate of \$480 or more, but less than \$540 per annum.

Class G: All persons receiving an annual salary of \$420 or more, or a compensation at the rate of \$420 or more, but less than \$480 per annum.

Class H: All persons receiving an annual salary of \$360 or more, or a compensation at the rate of \$360 or more, but less than \$420 per annum.

Class I: All persons receiving an annual salary of \$300 or more, or a compensation at the rate of \$300 or more, but less than \$360 per annum.

Class J: All persons receiving an annual salary of \$240 or more, or a compensation at the rate of \$240 or more, but less than \$300 per annum.

Class K: All persons receiving an annual salary of less than \$240, or a compensation at the rate of less than \$240 per annum.

* * * * *

Enacted, March 9, 1901.

[No. 392.]

AN ACT Authorizing the employment of persons at salaries lower than those for which appropriation is made, and designating persons authorized to administer oaths for the civil service board.

By authority of the President of the United States, be it enacted by the United States Philippine Commission, that:

SECTION 1. The head of any department or bureau may, with the approval of the Philippine civil service board, appoint employees at salaries lower than those authorized and appropriated for: *Provided*, That the aggregate number of employees so authorized and appropriated for shall not be increased.

SEC. 2. The members of the civil service board, or any examiner duly authorized by it, may administer such oaths as may be necessary in the transaction of the official business of the board.

SEC. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 4. The provisions of this act shall be effective as of April first, nineteen hundred and two.

Enacted, April 18, 1902.

[No. 1040, as amended by Act No. 1276.]

AN ACT regulating the hours of labor, leaves of absence, and transportation of officers and employees in the Philippine civil service, and repealing Act Numbered Eighty, and all acts amendatory thereof.

By authority of the United States, be it enacted by the Philippine Commission, that:

SECTION 1. The required office hours of all bureaus and offices in the Philippine civil service shall be fixed by executive order, but they shall not be less than six and one-half hours of labor each day, not including time for lunch and exclusive of Sundays and of days declared public holidays by law or executive order: *Provided*, That when the nature of the duties to be performed or the interests of the public service require it, officers and employees may, by direction of the head of the bureau or office, be required to work on Sundays and holidays without additional compensation unless otherwise specifically authorized by law. It shall be the duty of heads of bureaus or offices to require of all employees, of whatever grade or class, not less than the number of hours of labor authorized by law or executive order, but the head of any department, bureau, or office may, in the interests of the public service, extend the daily hours of labor therein specified for any or all of the employees under him, and in case of such extension it shall be without additional compensation unless otherwise provided by law: *Provided, however*, That during the heated term from the first day of April to the fifteenth day of June in each year and on Saturdays throughout the year the civil governor may, by executive order, reduce the required number of hours of labor on each day to five hours. This executive order shall not oblige the head of a department, bureau, or office in the Philippine civil service to reduce the hours of labor to five hours, but it shall be within his discretion to reduce the number of hours if consistent with the needs of the public service; nor shall this provision be regarded as conferring a right upon officers or employees. This reduction of the required hours of labor shall not apply to the officers or employees of any bureau or office to whom an overtime wage is allowed and paid. The length of sessions of the courts shall be regulated by existing law, but the provisions of this act shall apply to all officers and employees in the bureau of justice except judges. The number of hours for the daily sessions of the public schools shall be fixed by the secretary of public instruction, but they shall not be less than five hours a day.

SEC. 2. (a) After at least two years' continuous, faithful, and satisfactory service, the civil governor or proper head of a department shall, subject to the necessities of the public service, and upon proper application therefor, grant each regularly and permanently appointed officer or employee in the civil service, insular or provincial, or of the city of Manila, except as hereinafter

provided, accrued leave of absence with full pay, inclusive of Sundays, and of days declared public holidays by law or executive order for each year of service in accordance with the following schedule: An employee receiving an annual salary of less than nine hundred dollars shall be granted twenty days' leave; an employee receiving an annual salary of from six hundred to nine hundred dollars with board and quarters, and an officer or employee receiving an annual salary of nine hundred dollars or more, but less than one thousand eight hundred dollars, shall be granted thirty days' leave; an officer or employee receiving an annual salary of one thousand eight hundred dollars or more shall be granted thirty-five days' leave. Leave shall accrue while an officer or employee is on duly authorized leave of absence with pay.

(b) If an officer or employee elects to postpone the taking of any or all of the leave to which he is entitled under this section, such leave may accumulate until January first, nineteen hundred and five, after which date no person shall at any time have to his credit more than the accrued leave allowed for five years' service, and if his salary changes he shall receive the same amount of leave and pay as if he had taken the leave while receiving the salary at which it accrued.

(c) An officer or employee who has served in the islands for three years or more, or two years if appointed under the provisions of Act Numbered Eighty, as amended, and who has accumulated to his credit the accrued leave allowed for two full years, may be granted permission to visit the United States: *Provided*, That such permission shall not be granted oftener than once in every three years.

(d) A person in the teaching service shall not be granted accrued leave in accordance with the schedule provided in this section, but in lieu thereof he may be granted leave on full pay during vacation periods, with permission to spend a vacation period in the United States not oftener than once in every three years.

(e) In case an officer, teacher, or other employee is granted leave to visit the United States, he shall be allowed, with half pay in addition to the leave granted, sixty days for the time occupied by him in going to and returning from the United States if he is serving in Manila, and if serving in the provinces sixty days plus the actual and necessary time consumed from date of departure from station to date of departure from Manila, and on returning, from date of arrival at Manila to date of arrival at station, such half salary to be paid on return to duty. On the completion of two years of continuous, faithful, and satisfactory service after returning to the islands from leave of absence to visit the United States granted for three or more years' service, he shall be allowed his actual and necessary traveling expenses from his place of residence in the United States to Manila if he come by the route and steamer directed.

(f) Semiskilled and unskilled laborers, temporary and emergency employees, persons receiving a daily wage or salary, persons enlisted for a term of years, persons in the United States civil service who are paid in whole or in part from insular funds, and persons who receive compensation for official duties performed in connection with private business, vocation, or profession, such duties requiring only a portion of their time, shall not be entitled to the leave provided in this section.

(g) The provisions of this section shall be retroactive in effect so as to entitle officers and employees of the Philippine civil service, whether serving as such by regular appointment or by detail from the Army, the Navy, or the civil service of the United States, previous to the passage of this act, to any accrued leave to which they would have been entitled had Act Numbered Eighty, as amended, been applicable to them at the date of their employment or detail, computing the leave in the case of an officer on the basis of the salary and allowances received while on detail, and in the case of an enlisted man on the basis of first salary received in the Philippine civil service. No application for leave of absence presented by an officer or employee who has heretofore resigned without applying for leave shall be considered if presented after July first, nineteen hundred and four, or by an officer or employee who resigns after January first, nineteen hundred and four, if his application is not presented within six months of the date of the acceptance of his resignation.

SEC. 3. After at least six months' continuous, faithful, and satisfactory service the civil governor or proper head of a department may, in his discretion, grant each officer or employee entitled to the accrued leave provided in section two of this act in addition to such accrued leave, vacation leave of absence with full pay, inclusive of Sundays and of days declared public holidays by law or

Executive order, for each calendar year of service, in accordance with the following schedule: An employee receiving an annual salary of less than one thousand dollars may be granted twenty-one days' vacation leave; an officer or employee receiving an annual salary of one thousand dollars or more may be granted twenty-eight days' vacation leave. Vacation leave must be taken within the calendar year in which it is earned. The vacation leave provided for only one calendar year may be allowed in connection with accrued leave granted with or without permission to visit the United States. In cases of resignation vacation leave shall not be allowed in addition to accrued leave. All applications for vacation leave shall be made on a form prescribed by the Philippine civil service board: *Provided, however*, That in case vacation leave has not been taken during the calendar year, the same may be enjoyed during the first two months of the succeeding calendar year without impairing the right to the full vacation period for the succeeding year.

SEC. 4. (a) Absence from duty of teachers, due to illness, shall be charged against their vacations, and with the consent of the secretary of public instruction they may remain on duty during vacations for a period equal to that lost on account of illness, in which case no deduction of pay shall be made on account of absence caused by illness.

(b) Absence of other regularly and permanently appointed officers and employees in the Philippine civil service on account of illness shall be charged first against vacation leave, and then against accrued leave, until both are exhausted, when further absence shall be without pay.

(c) Payment of salary to an officer or employee for any absence during his first six months of service properly chargeable to vacation leave, or during his first two years of service properly chargeable to accrued leave, shall be withheld until such leave may properly be taken under the provisions of section two or three of this act: *Provided, however*, That in case of absence due to illness the civil governor or proper head of department may direct that payment for such absence be not withheld if not in excess of the vacation and accrued leave to his credit. In case absence is on account of wounds or injuries incurred in the performance of duty, and extends beyond the vacation leave to his credit, the civil governor or proper head of department may direct that such further absence shall be on full pay. If the absence caused by illness, wounds, or injuries shall exceed six months in any twelve months, the officer or employee shall be immediately separated from the service.

SEC. 5. If a regularly appointed officer or employee in the Philippine civil service, who has rendered faithful and satisfactory service, shall die while in the service, the unused accrued leave that might have been granted at the time of death shall be determined, and the salary equivalent of the accrued leave shall be paid to the person or persons entitled by law to receive the same.

SEC. 6. Whenever upon the resignation or death of an officer or employee it is necessary to the interests of the public service that the position occupied by him shall be immediately filled, the civil governor or proper head of department may direct that all accrued leave granted him be commuted from the funds of the government, insular or provincial, or of the city of Manila, in which he was serving at the time of his resignation or death. If he was in the service of the insular government, payment shall be made by settlement warrant from the insular salary and expense fund; if he was in the service of the city of Manila, payment shall be made by settlement warrant from the salary and expense fund of the city of Manila, and if he was in the service of a province, the provincial board of such province is hereby authorized, upon direction of the civil governor as above provided, to commute from the provincial funds the accrued leave of absence granted such officer or employee. If there is no urgent necessity for filling the position at once, payment for the accrued leave granted shall be made from the salary appropriated for the position last filled by him.

This section shall be retroactive in effect so far as necessary to authorize, in cases now pending, the procedure herein provided.

SEC. 7. All applications for accrued leave of absence shall be made on a form prescribed by the civil service board, and shall first be acted upon by the chief of the bureau or office, and by him submitted to the civil service board for its recommendation. The application shall then be forwarded by the board to the head of the department in which the applicant is employed for his final decision, except in respect to those bureaus or offices not under any department, in which cases the recommendations of the board shall be forwarded to the civil governor for his final decision.

SEC. 8. The civil governor is authorized to promulgate executive orders regulating the method of enforcing the provisions of this act, including the withholding of salary for leave granted.

SEC. 9. The appointment of all persons residing in the United States to the Philippine civil service, whether by transfer from the United States civil service or otherwise, shall be subject to the following conditions:

(a) A person residing in the United States who is appointed to the Philippine civil service may pay his traveling expenses from the place of his residence in the United States to Manila: *Provided*, That if any part of his traveling expenses is borne by the government of the Philippine Islands, ten per centum of his monthly salary shall be retained until the amount retained is equal to the amount borne by the government: *And provided further*, That if he shall come by the route and steamer directed his actual and necessary traveling expenses shall be refunded to him at the expiration of two years' satisfactory service in the Philippines.

(b) He shall be allowed half salary from the date of embarkation and full salary from the date of his arrival in the islands: *Provided*, That he proceed directly to the islands; otherwise, he shall be allowed half salary for such time only as is ordinarily required to perform the journey by the route directed: *And provided further*, That such half salary shall not be paid until after the expiration of two years of satisfactory service in the Philippines.

(c) A person residing in the United States accepting an appointment to a position in the civil service of the government of the Philippine Islands, under the conditions named in this act, shall, before receiving such appointment, execute a contract and deliver it to the Chief of the Bureau of Insular Affairs, War Department, wherein the appointee shall stipulate that he will remain in the service of the government of the Philippine Islands for at least two years, unless released by the civil governor or proper head of a department. A breach of the conditions provided in the contract or a removal for cause shall require the proper officer to withhold payment of all salary and traveling expenses due to the person employed and who has violated the conditions of his contract or been removed for cause, and shall debar such person from ever entering again the public service of the Philippine government in any of its branches. In such case an action shall lie for the recovery of the amount expended by the Government in bringing the employee to the Philippine Islands.

(d) Irrespective of leave granted, a regularly appointed officer or employee who has rendered continuous, faithful, and satisfactory service for three years or more after arrival in the Philippine Islands shall, upon his retirement from the service, be allowed half salary for thirty days in addition to full salary for the period which may be granted him as leave of absence under the provisions of this act; and if appointed prior to the passage of this act, he shall also be furnished transportation from Manila to San Francisco, or transportation of equal cost to the Government by any other route.

SEC. 10. The provisions of this act shall not apply to judges of the supreme court, the courts of first instance, the court of land registration, and the court of customs appeals, but their leaves of absence and traveling expenses shall be governed by existing law or such law as may be hereafter enacted.

SEC. 11. All special contracts made with appointees of the Philippine civil service prior to the passage of this act shall remain unaffected by the terms and provisions of this act.

SEC. 12. Act Numbered Eighty and all amendments thereof, and all other acts or parts of acts in conflict with the provisions hereof, are hereby repealed: *Provider, however*, That all leaves of absence accruing prior to January first, nineteen hundred and four, shall be computed under the schedule provided in section two of said Act Numbered Eighty, as amended.

SEC. 13. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 14. This act shall take effect on its passage, but its provisions shall be retroactive and effective as of January first, nineteen hundred and four.

Enacted, January 12, 1904.

CIVIL SERVICE RULES.

In the exercise of power vested in him by Act No. 5, as amended, entitled "An act for the establishment and maintenance of an efficient and honest civil service in the Philippine Islands," and by Act No. 1040, entitled "An act regulating the hours of labor, leaves of absence, and transportation of officers and employees in the Philippine civil service, and repealing Act No. 80 and all acts amendatory thereof," and impliedly by Act No. 25, as amended, entitled "An act providing for the appointment and removal of subordinate officers and employees in certain departments and bureaus of the government of the Philippine Islands," the civil governor hereby approves and promulgates the following civil service rules, prepared and certified by the Philippine civil service board, and revokes all rules and executive orders heretofore issued in connection with the above-mentioned Acts of the Philippine Commission.

RULE I.—General provisions and definition of terms.

1. The board shall have authority to prescribe such regulations in pursuance of and in execution of these rules as are not inconsistent therewith, and shall prescribe blank forms for all applications, examinations, certifications, reports, records, and returns received under these rules and the regulations made in pursuance thereof.

2. Except as provided therein, the first 11 rules apply to the classified service only; the remaining rules have a general application to both the classified and the unclassified service.

3. The several terms hereinafter mentioned, wherever used in these rules, shall be construed as follows:

(a) The term "board" refers to the Philippine civil service board.

(b) The term "grade" refers to the number of positions or employees arranged in a group upon the basis of the duties performed, without regard to the salaries received.

(c) The term "class" refers to a number of positions or employees arranged in a group upon the basis of the salaries received, without regard to the duties performed.

(d) Whenever the term "officers" is used it shall be understood to refer to civil officers employed in, or military officers detailed to, the Philippine civil service.

(e) The term "classified service" includes all positions in the Philippine civil service not excepted by the civil service act, as amended.

(f) All printed forms mentioned in these rules refer to forms of the Philippine civil service board.

RULE II.—Applications for examinations.

1. No applicant shall be admitted to competitive examination who has not taken the oath of allegiance to the United States and who is not a citizen of the United States, a native of the Philippine Islands, an honorably discharged soldier, sailor, or marine of the United States, or a person who has under and by virtue of the treaty of Paris acquired the political rights of natives of the islands.

2. Every applicant for examination must furnish information as to his citizenship, nativity, age, education, and physical capacity, and such other information tending to show his qualifications or disqualifications for the service as may be required by the board.

3. No applicant shall be admitted to examination or be appointed in the United States to this service originally, by reinstatement or by transfer, until he has been thoroughly examined by a competent physician and found to be physically qualified for efficient service in the Philippine Islands. A physical and medical examination may, in the discretion of the board, be required of applicants for examination in the Philippine Islands.

4. No applicant shall be admitted to examination in the Philippine Islands until he has furnished evidence satisfactory to the board of his loyalty to the supreme authority of the United States of America in these islands.

5. No application for examination shall be accepted from any person serving in the Army, the Navy, or the Marine Corps of the United States unless written consent of the proper military, naval, or marine authority under whom such person is serving is filed with his application.

6. No application for examination for entrance into the classified service shall be accepted from any applicant who is under 18 or over 40 years of age: *Provided*, That in the interest of good administration the board, with the concurrence of the civil governor or proper head of a department, may by regulation determine the age limitations within the maximum and minimum limits herein specified, and confine competition for such positions to persons who meet the requirements as to age: *And provided further*, That whenever in the discretion of the board the needs of the service require it, the age limitations named herein may be extended for any particular kind of examination.

7. The board may, in its discretion, refuse to examine an applicant or to certify or attest an appointment of an eligible who is physically unfitted for the performance of the duties of the position to which he seeks appointment, or who has been guilty of a crime, or infamous, notoriously disgraceful, or immoral conduct, drunkenness, or dishonesty; or who has been dismissed from the service for other delinquency or misconduct within one year next preceding the date of his application; or who has intentionally made a false statement in any material fact, or practiced or attempted to practice any deception or fraud in securing his examination, registration, or appointment. Any of the foregoing disqualifications shall be good cause for the removal of the person from the service after his appointment.

8. No application shall be accepted for examination to test fitness for a position which belongs to one of the recognized mechanical trades unless it shall be shown that the applicant has served as apprentice or as journeyman, or as apprentice and journeyman, at said trade for such periods as the board may prescribe.

RULE III.—Examinations.

1. Examinations of a suitable and practical character, absolutely impartial, and involving such subjects and tests as the board may determine, shall be held to ascertain the relative capacity and fitness of applicants for the positions to which they seek to be appointed.

2. Whenever the board shall find, after consultation with the head of the proper department, bureau, or office, that a knowledge of both the Spanish and the English languages is essential to an efficient discharge of the duties of a position to be filled, the board shall test English-speaking applicants as to their knowledge of the Spanish language, and Spanish-speaking applicants as to their knowledge of the English language.

3. No person shall be appointed to, or employed in, any classified position unless he shall have passed the examination provided therefor, or unless he is specially exempt from such examination by the provisions of the civil service act and rules.

4. No noncompetitive examination shall be held except—

(a) When applicants fail to compete after due notice has been given of an open competitive examination.

(b) To test fitness for promotion.

(c) To test fitness for reinstatement or transfer.

(d) To test fitness for positions requiring professional, technical, or scientific qualifications when, in the judgment of the board, it is not practicable to hold a competitive examination.

(e) To test fitness for positions of skilled workmen, mechanics, or artisans.

5. Examinations in the Philippine Islands shall be held in Manila and in the provinces upon such dates as the board may deem best for the interests of the service and the convenience of applicants, and examinations in the United States will be held under the auspices of the United States Civil Service Commission at the request of the board.

6. The board shall appoint such examining committees or special examiners as it may deem necessary from officers and employees in the Philippine civil service: *Provided*, That if the head of any bureau in Manila shall object to the appointment of any officer or employee of his bureau as a member of an examining committee, or as a special examiner, such appointment shall be subject to the approval of the civil governor or proper head of a department. The members of examining committees and special examiners are examiners of the board, and shall perform such duties as the board may direct in connection with examinations, investigations, appointments, and promotions, and in the performance of such duties they shall be under the direct and sole control and authority of the board. The duties performed by members of examining committees and special examiners shall be considered part of the duties of the

office in which they are serving, and time shall be allowed for the performance of such duties during the office hours of said office.

7. All officers of the Philippine civil service shall facilitate the examinations of the board, and officers having the custody of public buildings at places where such examinations are to be held shall for this purpose permit and arrange for the use of suitable rooms under their charge and for furnishing and lighting the same when required.

RULE IV.—*Rating of papers and eligibility.*

1. Examination papers shall be rated according to their excellence on a scale of 100, and the subjects of each examination shall be given such relative weights as the board shall prescribe. After a competitor's papers have been rated he shall be duly notified of the result thereof by the board or by the head of his bureau or office at the request of the board.

2. Every competitor who attains a general rating of 70 or over shall be eligible to appointment, subject to the provisions of these rules, to the position for which he was examined, and the names of eligibles shall be entered in the order of their general ratings, without regard to the date of examination, on the proper register of eligibles.

3. The period of eligibility shall be one year from the date on which the name of the eligible is entered on the register, but this period may be extended if, in the discretion of the board, the needs of the service warrant it: *Provided*, That in case an eligible shall be mustered into the military or naval service of the United States at a time when the United States is engaged in war or in suppressing an insurrection, his period of eligibility shall, under such conditions as the board may prescribe, be considered as suspended during the time he is serving in the Army or the Navy of the United States: *And provided further*, That the eligibility to appointment of any person resulting from examinations held only in the Philippine Islands shall be suspended during the absence of such person from the Philippine Islands.

RULE V.—*Certifications.*

A vacancy in a classified position, if not filled by promotion, reduction, transfer, or reinstatement, or through noncompetitive examination, shall be filled under the following provisions:

1. The appointing officer shall make requisition upon Form No. 9 for the names of eligibles for the position vacant, specifying the duties of the position, and the board shall certify to said officer from the proper register the three names at the head thereof which have not been three times certified to the office or branch of the service in which the vacancy exists: *Provided*, That certification for temporary appointment shall not be counted as one of the three certifications to which an eligible is entitled: *And provided further*, That whenever the request for certification, or any law, rule, or regulation, shall call for persons of one sex, those of that sex shall be certified; otherwise sex shall be disregarded in certification.

2. The appointing officer shall select one of the three names certified, and if at the time of selection there are more vacancies than one he may select more than one name: *Provided*, That if an appointing officer shall object to an eligible certified, stating that because of disloyalty, physical defect, mental unsoundness, or moral or other disqualification particularly specified in section 7 of Rule II, such eligible would be unsuitable for the position to be filled, and if said officer shall support such objections with evidence satisfactory to the board, certification shall be made of the eligible on the register whose rating is next below those already certified in place of the one to whom objection is made and sustained.

3. In making selections from certifications of eligibles by the board, appointing officers shall, when other qualifications are equal, prefer:

First. Natives of the Philippine Islands.

Second. Honorably discharged soldiers, sailors, and marines of the United States.

4. The board, whenever practicable, shall forward to the appointing officer in connection with each certification the application and examination papers of the persons certified, and said officer may summon personally before him the eligibles certified and make such inquiries of them as he may think proper. The papers forwarded by the board to the appointing officer for his information shall be returned to the board with notice of selection on Form No. 18.

5. Whenever a person residing in the Philippine Islands or in the United States is selected for appointment to the classified civil service, the appointing officer shall notify the board and the board shall notify the appointee. Upon his reporting for duty, the appointing officer shall immediately forward to the board probationary appointment on Form No. 33; such appointment is not to be made effective prior to the date upon which the appointee actually enters upon the performance of his duties. If the eligible was provisionally appointed in the United States, his regular appointment will be effective the day following the date of his actual landing in the Philippine Islands, provided he reports immediately at the office of the board, and leave shall not accrue prior to date of regular appointment. At the expiration of the probationary period of six months, if his conduct and capacity are satisfactory to the appointing officer, his retention in the service shall be equivalent to his absolute appointment; but if his conduct and capacity be not satisfactory he may at any time during, or at the expiration of, his probationary period be notified by the appointing officer that he will not receive absolute appointment because of such unsatisfactory conduct or want of capacity, and such notification, without other formality, shall discharge him from the service. Full report of the cause of the discharge shall be made to the board. A probationer may be reduced in class or grade at any time during or at the expiration of his probationary period by a notification of reduction from the appointing officer, without other formality; in such case the appointing officer shall immediately forward to the board new appointment on Form No. 33, accompanied by a full statement of the cause of the reduction. The name of a probationer who has been separated from the service without delinquency or misconduct may be restored to the register of eligibles, in the discretion of the board, for the remainder of his period of eligibility.

6. An eligible may waive certification or decline appointment without losing his position on the register upon furnishing reasons satisfactory to the board, but without such action his name shall be dropped from the register upon his declination of an appointment. No eligible shall have the right to decline an appointment from the same register more than twice.

7. Certification for original appointment shall, whenever practicable, be made to the lowest class in a grade, but a vacancy in a position in any class requiring the exercise of special, technical, or professional knowledge may be filled by original appointment.

8. When two or more eligibles have the same rating, precedence in certification shall be determined in accordance with section 3 of this rule, if applicable; otherwise, by the order in which their applications were filed.

9. All appointments of persons residing in the United States, as well as those residing in the Philippine Islands, to positions in the classified civil service shall be made through the civil service board in strict accord with the rules and regulations prepared by the board, and the same procedure shall be followed in making selections for appointment in the United States as is followed in making selections in the Philippine Islands. Official correspondence by cable or letter with or relating to prospective appointees residing in the United States must be transmitted through the board for appropriate action.

RULE VI.—*Temporary service.*

1. Whenever there are fewer than three eligibles upon a register, the appointing officer may appoint probationally the one eligible, or one of the two eligibles, certified, in the same manner as if three eligibles had been certified; but if he elects not to make probationary appointment from such certification, he shall select for temporary appointment the one eligible, or one of the two eligibles, if either will accept such temporary appointment. Temporary appointment made from an eligible register as provided in this section may continue until such temporary appointee is given probationary appointment or until the board certifies three eligibles, when probationary appointment must be made.

2. Whenever there are no names of eligibles upon a register for any grade in which a vacancy exists, and the public interests require that it shall be filled before eligibles can be provided, such vacancy may, subject to the *antecedent* approval of the board, be filled by the employment without examination of a person for such time as will enable the board to provide one or more eligibles. Such temporary employment shall expire when the board shall certify an eligible who accepts either temporary or probationary appointment.

3. Whenever an emergency shall arise in the provinces requiring that a vacancy shall be immediately filled before eligibles can be certified or temporary employment authorized by the board, the appointing officer shall *first* make requisition for a certification of eligibles, and pending the certification of eligibles such vacancy may be immediately filled by the appointing officer through emergency employment, to continue for such time only as may be required for the appointment of an eligible, or for the authorization of temporary employment by the board. It shall be the duty of every appointing officer to report at once to the board, giving reasons for such emergency employment and to obtain authority therefor.

4. Whenever the work to be done is, in the judgment of the board, temporary in character, the board may authorize temporary employment without examination, which employment may continue until the completion of the work.

RULE VII.—*Reinstatements.*

Any person who has been regularly appointed to a position in the classified civil service, and who has through no delinquency or misconduct been separated therefrom, may, if no good reason to the contrary appears, upon the requisition of the proper officer on Form No. 8 and the certificate of the board, be reinstated to a vacant position of a class not higher than that from which he was separated, under the conditions named below. The last two sections of this rule apply to the unclassified as well as to the classified service.

1. If the person regularly entered the classified service without examination, a noncompetitive examination may be required, in the discretion of the board, prior to reinstatement.

2. If for original entrance to the position proposed to be filled by reinstatement there is required, in the opinion of the board, an examination essentially higher than, or different from, the examination for original entrance to the position previously held by the person whose reinstatement is proposed, a noncompetitive examination may be required prior to reinstatement.

3. A person who has served six months or less in the Philippine civil service may be reinstated as a probationer within a period of six months following his separation from the service under the former appointment; a person who has served more than six months but less than two years, and who has received absolute appointment, may be reinstated within one year; a person who has served two years, but less than three years, may be reinstated within two years; a person who has served three years, but less than four years, may be reinstated within three years; a person who has served four years, but less than five years, may be reinstated within four years; and a person who has served five years or more may be reinstated within five years from the date of his separation from the service.

4. Subject to the other conditions of these rules, any person whose separation from the civil service was caused by his enlistment or acceptance of a position in the active military or naval service of the United States, and who was honorably discharged therefrom, may be reinstated without regard to the length of time he has been separated from the civil service.

5. A person in the United States who resigned from the Philippine classified or unclassified civil service before having rendered three years' service in the Philippine Islands, and who is reinstated in either of said services, shall not be entitled to the half salary and travelling expenses provided by law for persons residing in the United States who are appointed to the Philippine civil service.

6. No person separated from the Philippine classified or unclassified civil service before having served the full period prescribed by law or contract shall be allowed to reenter either of said services, until he shall have made good all loss caused by such separation and shall have refunded to the government such proportion of the total expenses, if any, incurred by it by reason of his appointment, including salary and travelling expenses prior to the date he actually entered upon the duties of his position, as the time he failed to serve is to the time required by said law or contract, and then only on the approval of the head of the department from which he was separated. All amounts so refunded to the Insular government shall be paid to the disbursing officer of the executive bureau, and by him deposited in the Insular treasury as general funds. Applications of such persons for reentrance to the service should be made through the board.

RULE VIII.—*Transfers.*

1. A person in any bureau, office, or branch of the service may be transferred within the same bureau, office, or branch of the service upon any test of fitness, not disapproved by the board, which may be determined upon by the appointing officer, subject to the limitations of the proviso of section 2 of this rule.

2. A person who has received absolute appointment may, upon the completion of Form No. 7 by the heads of the bureaus or offices interested, and the certificate of the board, be transferred from a position in one bureau, office, or branch of the service to a position in another bureau, office, or branch of the service: *Provided*, That such transfer shall not be made without examination to a position if for original entrance to such position there is required under these rules an examination essentially higher than, or different from, the examination required for original entrance to the position from which transfer is proposed.

3. No transfer shall be made of a person from any position in the unclassified service to a position in the classified service: *Provided*, That a person who has by promotion or transfer from the classified service entered the unclassified service, and has served continuously therein from the date of said promotion or transfer, may be retransferred to the classified position from which he was transferred or to any position to which transfer could be made therefrom.

4. Any person who has been transferred from one classified position to another classified position may be retransferred to the position in which he was formerly employed, or to any position to which transfer could be made therefrom, without regard to the limitations of these rules.

5. A person in the classified service of the Federal Government of the United States may be transferred to any position in the Philippine classified service, subject to the conditions of these rules with respect to age limitations and examinations, and when an examination is required previous to such transfer the board may accept such tests of fitness as may be made upon its request by the United States Civil Service Commission.

6. An officer or employee occupying a competitive position in the Philippine classified civil service who has served three years or more therein may be certified for transfer to the Federal classified civil service, subject to the provisions of the United States civil service rules and to the following requirements:

(a) Three years' continuous service in the islands without visiting the United States.

(b) Four years' continuous service in the islands, visiting the United States only once during this period.

7. No head of a bureau or office of the government of the Philippine Islands, or any subordinate officer or employee thereof, shall, directly or indirectly, invite, solicit, or even discuss with a subordinate officer or employee, classified or unclassified, permanent or temporary, of another bureau or office, or of the Army or the Navy of the United States in these islands, his appointment or transfer to the bureau or office of such head or subordinate, until the consent in writing is first obtained of the head of the bureau or office in which the desired officer or employee is a subordinate, or of the civil governor or proper head of a department, or of the officer of the Army or the Navy under whom he may be employed or serving.

RULE IX.—*Promotions.*

1. No vacancy in any position shall be filled by original appointment whenever there is in the bureau or office in which the vacancy exists any person in a position in a lower class or grade who is competent and qualified and is willing to be promoted to the existing vacancy.

2. In providing regulations and competitive examinations for promotion the board shall give due weight to the previous experience and efficiency of officers and employees, and shall introduce such tests of fitness as it may deem proper after consultation with the heads of the different bureaus, offices, or branches of the service in which promotion examinations may be held for the purpose of determining the relative efficiency of officers and employees.

3. In each department, bureau, office, or branch of the service, the board may, subject to the proviso contained in section 6 of Rule III, designate a promotion examining committee of not less than three persons. The members of the committee shall perform such duties with respect to promotions and promotion ex-

aminations as the board may direct, in the performance of which duties they shall be under the sole control and authority of the board.

4. There shall be kept in each office, on forms prescribed by the board for that purpose, a comparative record from which the relative efficiency of employees may be determined. Among the elements of efficiency to be considered are quantity of work or the amount performed, quality of work or the degree of its excellence, physical condition, habits, character, conduct, aptitude and adaptability, punctuality, and attendance. This record shall be at all times open to the inspection of the board. A report shall be made to the board semiannually on Form No. 54, on the first days of January and July, giving the comparative term and corresponding efficiency rating applicable to each person according to the following scheme:

Very superior: Indicating the highest degree of efficiency or excellence.	95 to 100
Superior: Indicating a high degree of efficiency or excellence-----	85 to 94
Good: Indicating a degree of efficiency above the average-----	75 to 84
Fair: Indicating an ordinary degree of efficiency-----	70 to 74
Poor: Indicating inefficiency -----	Below 70

5. No recommendation of any person for promotion, whether verbal or in writing, shall be received or considered unless it be made by the officer or officers under whose supervision he is or has been employed, and the presentation of any other recommendation shall be considered an unwarrantable interference with the public service.

6. Until the promotion regulations herein authorized have been promulgated by the board for any department, bureau, office, or branch of the service, and the board has notified such department, bureau, office, or branch of the service that it is prepared to conduct the promotion examinations authorized under the civil service act and rules, promotions therein may be made upon any tests of fitness not disapproved by the board which may be determined upon by the appointing officer: *Provided*, That pending the adoption of such regulations, in case of proposed promotion from one class to another class of an employee who has not entered the service through the examination prescribed for the class to which promotion is proposed, such employee shall be required to obtain an eligible rating in such prescribed examination taken noncompetitively, and the appointment by promotion thus made shall not become effective prior to the date of taking the examination in which an eligible rating is obtained.

7. Save in exceptional cases, promotion or increase of salary shall not be made during the first six months after the appointment of an officer or employee in either the classified or the unclassified service, nor more frequently than once in twelve months thereafter, nor more than one class at a time. The question of whether a case is or is not an exceptional one shall be determined by the civil governor or proper head of a department.

8. When a promotion is proposed by the head of a bureau or office and report on Form No. 3 or Form No. 54 is overdue, action on such proposed promotion shall be suspended pending the receipt of said report in proper form.

RULE X.—*Appointment and employment.*

1. All appointments to classified positions, except temporary appointments, whether original, by promotion, reduction, transfer, or reinstatement, must be made in accordance with the provisions of Act No. 25, as amended, on Form No. 33, and transmitted to the board for attestation or recommendation and by it forwarded to the civil governor or proper head of a department for approval or disapproval: *Provided*, That appointments made by the civil governor, by and with the advice and consent of the Philippine Commission, shall not be made on the form referred to herein and shall not require the attestation of the board.

2. The payment of any money on account of salary to any officer or employee in the classified service is not warranted prior to the receipt by the disbursing officer of notification from the head of the bureau or office that the appointment or employment of such officer or employee has been duly authorized as provided by the civil service act and rules.

3. No person appointed to any unclassified position shall be assigned to or employed in a position the duties of which are clerical, nor shall he be assigned to or employed in any other position in the classified service.

4. No person appointed to a position in the classified service shall, without

the approval of the board, be assigned to or employed in a position of a grade or character not contemplated by the examination from the results of which appointment was made, except as provided in Act No. 408, as amended.

RULE XI.—*Procedure in reductions, separations, and suspensions.*

1. When the head of a bureau or office deems it necessary to recommend a regularly and permanently appointed subordinate officer or employee in the classified civil service for reduction in salary or compensation, he shall in writing notify the person affected of the proposed action and the grounds upon which such action is premised, and shall prescribe a reasonable period, which shall not be less than twenty-four hours, within which a written reply may be submitted, if desired, together with any written evidence he may desire to submit. Upon receipt of the reply or after the expiration of the period within which such reply should have been submitted, the head of the bureau or office shall forward to the board a certified copy of the letter of notification and the reply and evidence, if any shall have been received. These papers shall be promptly forwarded to the civil governor or proper head of a department by the board, together with its recommendation in the case, for final action.

2. In case of proceedings to remove a regularly and permanently appointed subordinate officer or employee in the classified civil service for cause, the head of the bureau or office may suspend such person at once, if he deem that course necessary, and, in any event, shall in writing notify the person in interest that his removal for cause is to be recommended, and of the ground upon which such recommendation is based, at the same time prescribing a reasonable period within which a written answer, supported by such written evidence as he desires to present, shall be submitted, such period to be not less than twenty-four hours after the actual receipt of the notification by the person recommended for removal. In the event of no response being received within the period prescribed, evidence of the receipt of the written notification, together with a certified copy of the same, shall be forwarded to the board. If reply has been received it shall be similarly forwarded, with a certified copy of the notification mentioned, together with any other evidence or papers in the case. The board shall promptly forward, with recommendation, all the papers in the case for final action. If such action be approval of the recommendation to remove for cause, the person affected shall be dropped from the rolls of the office as discharged on the day he was suspended, if suspension was made; otherwise his discharge shall be effective on the date of receipt by the head of the bureau or office in interest of the notification of approval by the civil governor or proper head of a department. Under no circumstances shall an officer or employee so construe the provisions of any law now in force as to authorize or require the official publication of the cause of removal of any person from the Philippine civil service in more specific terms than "for the good of the service."

3. In every instance of a tender of resignation by a regularly and permanently appointed subordinate officer or employee in the classified civil service, it shall be the duty of the officer authorized to act thereon to accept or decline to accept the same in writing, and if the resignation be accepted, to give him a letter stating clearly the character of the services rendered and whether or not, in the light of present information, a possible future application for reinstatement in the same bureau or office would be favorably considered. In the event of a statement to the effect that such application would not be favorably considered, reasons therefor shall be stated and the person in interest informed that he may, should he so desire, submit a written reply and such other written evidence as he may elect. When completed, certified copies or the originals of all the papers in the case shall be forwarded to the board; in case of objection to reinstatement, the papers will be forwarded by the board with its recommendation for review and final action. For obvious reasons no officer or employee should be continued in his position who could not be recommended for reinstatement were he to resign.

4. In cases of deduction from pay or suspension from duty without pay under the provisions of section 2 of Act No. 25, as amended, of a subordinate officer or employee in the classified or the unclassified civil service, the head of the bureau or office shall notify the person affected in writing of the action proposed and shall give him a reasonable period of time within which to submit a written answer, which shall be not less than twenty-four hours,

supported by such written evidence as he desires to present. The papers in the case shall be forwarded to the board for recommendation and shall be transmitted by the board to the civil governor or proper head of a department for final action. The deduction from pay shall not be made nor shall the suspension from duty take place until the approval of the civil governor or proper head of a department has been obtained.

5. If any of the papers in the proceedings under this rule are written in Spanish, the head of the bureau or office shall furnish translations in English, whenever practicable, as well as the originals or certified copies thereof. All papers relating to the removal or resignation of subordinate officers or employees in the classified civil service shall be filed in the office of the board.

6. In all cases of removal or reduction of officers or employees in the unclassified service above the grade of semiskilled laborer, the head of the bureau or office shall furnish the board with a full statement of the cause of the removal or reduction. In cases of resignation when an application for reinstatement would not be favorably considered, the board shall be furnished with a full statement of the character of the services rendered and the reasons why application for reinstatement would not be favorably considered.

RULE XII.—*Prohibitions and penalties.*

1. No person in the Philippine civil service shall use his official authority or official influence to coerce the political action of any other person or body.

2. No officer or employee in the Philippine civil service shall discharge or promote or degrade or in any manner change the official grade or compensation of any other officer or employee, or promise or threaten so to do, for giving or withholding, or neglecting to make, any contribution of money or other valuable thing for any political purpose whatever.

3. No inquiry shall be made, and no consideration whatever shall be given to any information relative to the political or religious opinions or affiliations of persons examined, or to be examined, or of officers or employees in the matter of promotion, and no discrimination shall be exercised, threatened, or promised against, or in favor of, any person employed, examined, or to be examined, because of his political or religious opinions or affiliations.

4. No recommendation of an applicant, competitor, or eligible involving any disclosure of his political or religious opinions or affiliations shall be considered by the board, by any examining committee or special examiner, or by any nominating or appointing officer.

5. No officer or employee shall engage in any private business, vocation, or profession, or be connected with any commercial undertaking, without written permission from the head of the bureau or office in which he is serving, and of the civil governor or proper head of a department. As a general rule, in any enterprise which involves the taking of time, this prohibition will be absolute in the case of those officers and employees whose remuneration is fixed on the assumption that their entire time is at the disposal of the government; if granted permission to engage in a business requiring time of applicant, copies must be furnished the board.

6. Discourtesy to private individuals or to government officers or employees, drunkenness, gambling, dishonesty, chronic or flagrant violation or neglect of duty, notoriously disgraceful or immoral conduct, physical incapacity due to immoral or vicious habits, incompetency, lending money at exorbitant rates of interest, willful failure to pay just debts, contracting loans of money or other property from merchants or other persons with whom the bureau of the borrower is in business relations, pecuniary embarrassment arising from reprehensible conduct, the pursuit of private business, vocation, or profession without permission in writing from the head of the bureau or office in which employed and of the civil governor or proper head of a department, disreputable or dishonest conduct committed prior to entering the service, or the willful violation by any person in the Philippine civil service of any of the provisions of the civil service act or rules, may be considered reasons demanding proceedings to remove for cause or to reduce in class or grade. No head of a bureau or office shall knowingly continue in the public service any subordinate officer or employee guilty of any of the above-named derelictions without submitting the facts through the board to the civil governor or proper head of a department.

7. In making removals or reductions, or in imposing other punishment, for delinquency or misconduct, penalties like in character shall be imposed for like offenses, and action thereon shall be taken irrespective of the political or religious opinions or affiliations of the offenders.

RULE XIII.—Official roster of officers and employees.

The board shall keep an official roster of all regularly and permanently appointed officers and employees in the civil service of the Philippine Islands above the grade of semiskilled laborer, and for the purpose of this roster each head of a bureau or office shall furnish to the board:

1. The necessary information in such form and manner as it may prescribe.
2. A statement on Form No. 3 on the first day of each month of all changes, and the dates thereof, in the service under his control and authority, setting forth, among other things, the following: The name of every person appointed, reinstated, promoted, reduced, transferred, or separated from the service; the position to which an appointment or reinstatement is made; the position from which and the position to which a promotion or transfer is made; the position from which a separation is made, whether by removal, resignation, or death, and the compensation of every position from which or to which a change is made.

RULE XIV.—Employment of semiskilled and unskilled laborers.

The employment by the heads of bureaus or offices of semiskilled and unskilled laborers whose rate of compensation is less than \$300 per annum shall be subject to the following conditions:

1. They shall be employed according to priority in making application for employment, after proper inquiry as to their capacity to labor, their habits of industry and sobriety, and their honesty.
2. No consideration whatever shall be given to the political or religious opinions or affiliations of applicants for such employment, and selections shall, so far as practicable, be confined to natives of the islands.
3. Every applicant employed shall be required to take the oath of allegiance prescribed in section 16 of the civil-service act, and any laborer who is found to be disloyal to the United States of America as the supreme authority in these islands shall be immediately discharged from the service.
4. Laborers who may hereafter be removed from the service by reason of a reduction in force, or otherwise, and whose work and conduct are satisfactory, shall be furnished discharge cards certifying to such fact, and upon presenting such cards shall be preferred in subsequent employment as vacancies occur.
5. On the first day of each month the head of each bureau or office shall notify the board of the number of semiskilled and unskilled laborers employed, giving the rates of compensation of each grade.
6. No person appointed or employed as a semiskilled or unskilled laborer shall be assigned to or perform the duties of any position in the classified service.

RULE XV.—Hours of labor.

1. It shall be the duty of all heads of bureaus or offices in the Philippine civil service, insular, provincial, and municipal (Manila), to require of all subordinate officers and employees, except teachers, of whatever grade or class, not less than six and one-half hours^a of labor each day, not including time for lunch and exclusive of Sundays and of days declared public holidays by law or executive order, except that on Saturdays throughout the year and during the heated term from the 1st of April to the 15th of June the head of any department, bureau, or office may reduce the required number of hours of labor on each day to not less than five hours,^b but this reduction shall not apply to the officers or employees of any bureau or office to whom an overtime wage is allowed and paid. When the required daily hours of labor exceed five, at least an additional half hour must be allowed daily for lunch.

2. When the nature of the duties to be performed or the interests of the public service require it, the head of any department, bureau, or office may extend the daily hours of labor herein specified for any or all of the employees under him, and in case of such extension it shall be without additional com-

^a Changed to seven hours (8 a. m. to 4 p. m., with a reasonable intermission for lunch) on all working days, except Saturdays, and five hours (8 a. m. to 1 p. m.) on Saturdays, by Executive Order, No. 29, series of 1905, promulgated October 26, 1905.

^b Changed to five and one-half hours (7.30 a. m. to 1 p. m.) for all working days, including Saturdays, by Executive Order, No. 16, series of 1906, promulgated March 24, 1906.

compensation, unless otherwise provided by law. Officers and employees may be required by the head of the bureau or office to work on Sundays and public holidays also, without additional compensation unless otherwise specifically authorized by law.

3. Each head of a bureau or office shall require a daily record of attendance of all the officers and employees under him entitled to leave of absence or vacation (including teachers) to be kept on Form No. 48, and also a systematic office record showing for each day all absences from duty from any cause whatever. At the beginning of each month he shall report to the board on Form No. 3 all absences from any cause whatever, including the exact amount of undertime of each person for each day. Officers or employees serving in the field or on the water shall not be required to keep a daily record on Form No. 48, but monthly report of absences on Form No. 3 must be made.

RULE XVI.—*Leaves of absence.*

1. Except judges, all regularly and permanently appointed officers and employees of the Philippine civil service, insular, provincial, and municipal (Manila), including teachers, may be granted leave of absence or vacation in accordance with the provisions of Act No. 1040.

2. (a) Applications for accrued leave of officers and employees must be made in writing two weeks in advance, wherever possible, of the date on which the leave is desired to become effective, on Form No. 39, to the head of the bureau or office for recommendation and transmission through the board to the proper officer authorized to exercise executive control as contemplated in Act No. 222. The first indorsement on said form must be completed by the head of the bureau or office.

(b) In case of the death of an officer or employee the head of the bureau or office shall transmit through the board application on Form No. 39 for accrued leave due, and application on form No. 55, supported by medical certificate on Form No. 41, for vacation leave covering absence on account of illness immediately preceding death.

(c) When an officer or employee is separated from the civil service without prejudice, by resignation, death, or other cause, the money value of accrued leave granted, estimated in accordance with the provisions of Act No. 1040, may become immediately due and payable if the state of the appropriation from which his salary is payable warrants immediate payment. If the leave granted is commuted, payment therefor shall be made as provided by law; if the leave granted is not commuted, payment shall be made by the disbursing officer of the bureau or office from the unexpended balance for salaries and wages, and the position shall remain vacant for a period equal to the accrued leave granted.

(d) An officer or employee who applies for accrued leave which was earned at different rates of compensation shall be granted leave with pay at the salary he is last receiving for a period equaling in money value the period of accrued leave estimated in accordance with the provisions of Act No. 1040, and he may be granted, if he so desires, such additional leave, without pay, as will give him the aggregate length of time on leave, with and without pay, as provided in the aforesaid act.

3. (a) All applications for vacation leave of absence for a period of one full day or more must be made on Form No. 55 five days in advance, wherever possible, and transmitted to the board immediately: *Provided*, That applications on this form for two days or less may be retained by the head of any bureau or office if so preferred by him and forwarded to the board on the first day of the following month as inclosures to monthly report on Form No. 3; when forwarded with Form No. 3, the first indorsement on Form No. 55 need not be completed. Applications for less than one day will not be made on this form. All absences, including fractions of a day, must be recorded on Form No. 48 and reported to the board monthly on Form No. 3. In case of illness or unavoidable absence from other cause notice must be immediately sent to the head of the bureau or office, and the application, containing a brief explanation of the cause of delay in filing, forwarded later.

(b) The vacation leave of an employee whose salaries during a calendar year embrace the two rates of vacation leave provided in the schedule of section 3 of Act No. 1040 shall be computed by allowing credit for the two rates in proportion to the part of the year served at each rate.

(c) When vacation leave is requested by any officer or employee (except a teacher) during his first six months of service from the date of original ap-

pointment the board shall state on the application the date on which payment for such leave may properly be made under the provisions of Act No. 1040, and, unless the civil governor or proper head of a department directs otherwise, on account of illness of the officer or employee, the head of the bureau or office shall require that payment for such leave be withheld until that date.

(d) Form No. 55 shall be used by teachers for all absences during school terms on account of illness or other cause, and the general superintendent of education shall require payment for such absences to be withheld until they have performed duty during vacation for a period equal to their absences from duty on account of illness, as required by Act No. 1040: *Provided*, That if the absences were due to illness the withholding of salary may be postponed to the beginning of the next summer vacation. Teachers in applying for permission to visit the United States shall use Form No. 55, which must be accompanied by a complete statement by the general superintendent of education of the service record and all absences from duty of the teacher.

(e) Applications of officers and employees for leave of absence on account of wounds or injuries incurred in the performance of duty, extending beyond the allowable vacation leave (par. c, sec. 4, Act No. 1040), must be made on Form No. 40, supported by medical certificate on Form No. 41, and evidence showing that the wounds or injuries were incurred in the performance of duty.

4. Payment for vacation leave for more than two days granted any officer or employee who has served less than two years shall be withheld until five days after his return to duty. When an officer or employee who has served more than two years is granted vacation leave (either alone or in connection with accrued leave) in excess of the accrued leave that may be due on expiration of the leave granted, payment for such excess leave shall be withheld until five days after return to duty. In either case, in the event that it shall appear during the first five days after return to duty from leave that it is not the intention of the officer or employee to continue in the performance of his duties any longer than to draw all back salary which may be due him, payment shall be withheld and full report thereof forwarded by the head of the bureau or office, through the board, to the civil governor or proper head of a department for action. If he fails to return to duty no payment for the leave withheld shall be made unless the failure to return is due to illness and payment is authorized by the civil governor or proper head of a department.

5. All absences of an officer or employee in excess of the vacation or accrued leave allowable shall be without pay, unless the civil governor or proper head of a department directs that payment for such absence be made, in accordance with paragraph c, section 4, of Act No. 1040, on account of the absence being due to illness of the officer or employee: *Provided*, That if an officer or employee was appointed in the last seven months of the calendar year he may be granted the proportionate vacation leave for the year, payment being withheld until the leave is properly due under the provisions of Act No. 1040. At the expiration of the first two years of service the officer or employee may make written application covering the period for which pay was withheld. This application shall be forwarded by the head of the bureau or office, with his recommendation, through the board to the civil governor or proper head of a department, who may direct that payment be made, if funds are available, and that the absence be charged against accrued leave.

6. If an officer or employee is separated from the service by resignation or otherwise after having taken vacation leave in excess of that proportion due for the part of the calendar year served by him, such excess vacation leave shall be charged against his salary or accrued leave: *Provided*, That if the vacation leave was allowed on account of illness of the officer or employee, the civil governor or proper head of a department may direct that no deduction be made from his salary or accrued leave for such excess vacation leave previously allowed.

7. An officer, teacher, or other employee appointed under the provisions of Act No. 1040, who is separated from the service by resignation or otherwise before having served two full years in the islands shall not be allowed any leave on separation.

8. (a) The resignation of a teacher who has served in the islands two full school years or more may be accepted at the end of a school year, and he may be allowed the vacation current: *Provided*, That the total vacation enjoyed by him shall not exceed twelve weeks for every forty weeks actually taught.

(b) As a rule the resignation of a teacher will not be accepted prior to the termination of the school year: *Provided*, That if for illness or other urgent

necessity the resignation of a teacher who has served in the islands more than two years is accepted by the secretary of public instruction without prejudice prior to the termination of the school year, he may be allowed salary for one week's vacation for every month actually taught by him since the preceding summer vacation, any absence chargeable to vacation to be deducted from this allowance; but the total vacation enjoyed by him shall not exceed twelve weeks for every forty weeks actually taught. Vacation may be allowed to the estate of a teacher who dies on the same basis as to a teacher whose resignation is accepted on account of illness.

9. In every case where action by the civil governor or head of a department is contingent upon illness of an officer or employee, evidence of illness must be submitted on Form No. 41, except where a teacher applies for permission to make up, during vacation, time lost from duty on account of illness; if the illness was due to immoral or vicious habits, favorable action will not be taken.

10. When an application for leave is received by the board and report on Form No. 3 is overdue, action on such application may be suspended pending the receipt of such report in proper form.

11. Absence on Saturday shall be counted as absence for one full day. A Sunday or a holiday occurring at the beginning or at the end of a period of accrued or vacation leave shall not be considered as a day chargeable to leave. Leave of absence for any reason other than serious illness must be contingent upon the necessities of the service.

12. Officers or employees on leave of absence shall report to the heads of their respective bureaus or offices at the end of each month by registered mail their post-office addresses for the ensuing month, and shall promptly report in a similar manner and in sufficient detail every unexpected and unavoidable delay which may have occurred during the period contemplated by their leave of absence. Absence from duty at station in the Philippine Islands after the expiration of the leave due shall be without pay.

13. No officer or employee in the Philippine civil service shall be dropped from the rolls of his office for unexplained absence in the United States until at least forty days after the expiration of the period of absence contemplated by the leave granted.

14. (a) All officers and employees who are granted leave of absence for the purpose of visiting the United States and who contemplate returning to duty upon the expiration of such leave of absence shall, before leaving the islands, make application to the executive secretary for transportation returning to Manila. In each application the date of the expiration of leave of absence and the post-office address of the applicant while in the United States must be stated.

(b) Immediately upon reaching the United States remittance covering cost of return transportation must be made to the chief of the Bureau of Insular Affairs, War Department, Washington, District of Columbia, with a statement of the date on which the applicant desires to leave the United States. All subsequent communications regarding return transportation and prompt report of any changes occurring in the applicant's post-office address must also be directed to the chief of the Bureau of Insular Affairs, and a duplicate copy of each such communication mailed at the same time to the head of the bureau or office interested.

(c) An officer or employee entitled to traveling expenses from his place of residence in the United States to Manila under the provisions of sections 2 or 9 of Act No. 1040 shall file with the auditor for the Philippine Islands his expense account within thirty days, if possible, after arrival at Manila.

LUKE E. WRIGHT,
Civil Governor.

MANILA, P. I., September 1, 1904.

EXAMINATION REQUIREMENTS RELATING TO APPOINTMENT AND PROMOTION.

Promotions of appointees from the third-grade Spanish register shall be made only to positions the salary or compensation of which is less than ₱600 per annum. Appointments by promotion to clerical positions as a result of the following examinations shall not be made at a compensation above ₱1,200 per annum: Second grade, Spanish; junior typewriter. Appointments by promotion to clerical positions requiring eligibility in one of the following examina-

tions shall not be made at a compensation above ₱1,800 per annum: Second grade, English; first grade, Spanish; junior translator; junior interpreter. Appointments by promotion to clerical positions with salaries above ₱1,800 per annum require eligibility in one of the following examinations: First grade, English; assistant; bookkeeper; stenographer; translator; interpreter; or an equivalent examination.

The usual entrance salary of persons appointed as a result of eligibility in any of the above examinations is indicated in the Manual of Information Relative to the Philippine Civil Service. (Minute of the board, April 2, 1904.)

Original appointments to clerical positions as a result of the following examinations shall not be made at a compensation above ₱1,200 per annum: Second grade, English; first grade, Spanish; junior translator; junior interpreter.

Hereafter the basic subjects of the following examinations shall be given in the English language only: Translator; interpreter; junior translator; junior interpreter.

Promotions as a result of the following examinations taken heretofore with Spanish basic subjects shall not be made above the following salaries: Translator or interpreter, ₱2,400 per annum; junior translator or junior interpreter, ₱1,200 per annum. (Minute of the board, December 19, 1904.)

Appointments may be made from the type-writing register of eligibles to positions bearing a salary of ₱2,000 or less per annum, but no appointment by promotion or otherwise shall hereafter be made to a position the salary of which is more than ₱2,000 per annum until the applicant shall have qualified in the first grade or an equivalent examination, such as the stenography and type-writing examination, the bookkeeping examination, etc. (Minute of the board, October 29, 1902.)

Semiskilled and unskilled laborers whose rate of compensation is less than ₱2.40 per diem shall be regarded as receiving a salary of less than ₱720 per annum and therefore not subject to examination requirements, as provided in paragraph 3, section 20, of the civil service act, as amended. Heads of bureaus or offices are authorized by law to employ without reference to the civil service board semiskilled or unskilled laborers whose rate of compensation is less than ₱720 per annum. (Minute of the board, September 5, 1904.)

FORMS PRESCRIBED BY THE BUREAU OF CIVIL SERVICE.

Form No. 2. Application for examination (English and Spanish).—To be filed by applicants for examination with a view to appointment to clerical, professional, or technical positions.

Form No. 3. Monthly report of changes and absences of officers and employees (English only).—To be forwarded to the Bureau of Civil Service on the first of every month by the head of each Bureau or Office, giving all changes and absences for the preceding month. The provincial board will render a consolidated monthly report for the entire province, all provincial officers, the governor, treasurer, supervisor, fiscal, secretary, and register of deeds, and all employees under them, being included in one report. Each of the judges of the Courts of First Instance will either render one report for his district, including therein all employees under him, or direct the clerk of court of each province to render a separate report to the Bureau of Civil Service promptly at the beginning of each month covering the court employees in the province.

Form No. 7. Request for transfer (English only).—To be used by heads of Bureaus and Offices in requesting the transfer of an employee from one classified position to another.

Form No. 9. Request for certification for appointment (English only).—To be used by heads of bureaus and offices in requesting a certification of names of persons eligible for original appointment to a classified position. This form will also be used in requesting the reinstatement of a person who has served in a position classified under the civil service act and rules.

Form No. 18. Report of selection for appointment (English only).—To be used by heads of bureaus and offices in reporting the selection or selections for original appointment made from certification of names in response to request on Form No. 9.

*Form No. 32. Oath of office (English only).—*To be executed by the appointee on the date of entry into the position to which promoted, reduced, transferred, reinstated, or originally appointed.

*Form No. 33. Appointment (English only).—*To be forwarded to the bureau of civil service by the heads of bureaus and offices for every appointment in the classified service, whether by promotion, reduction, transfer, reinstatement, or original appointment. This form is not to be forwarded until the appointee has entered upon the performance of his duties; the date of such entry will be the date the appointment is to take effect. The character of the appointment is to be stated in the last blank line, e. g., "Transfer from the bureau of ———, at ₱1,800;" "Reinstatement;" "Probational appointment;" "Promotion from ₱1,440." Form No. 33 is not to be used in appointing a person to any unclassified position or in cases of temporary appointment or temporary or emergency employment. A resolution of the Commission of July 27, 1906, provides that "in all cases in which the salary of a position is increased or a new position created by an appropriation act appointment to such position or increased salary shall not be of date prior to the date of the passage of the appropriation act, or such other date as may have been fixed specifically by law or resolution of the Philippine Commission for the increase in salary or the creation of the new position, as the case may be," and that, "aside from exceptional cases, appointment shall not be effective as of date prior to that upon which the appointment or promotion is actually made." Whenever, therefore, an appointment is made effective as of date prior to that upon which the appointment or promotion is actually made, a statement should accompany the appointment showing why it should be regarded as an exceptional case.

*Form No. 35. Application and examination for the trades and skilled occupations (English and Spanish).—*To be used by applicants for the trades and skilled occupations. In most cases the examination consists wholly of the evidence of experience, training, character as workman, age, and physical condition contained in this form. In other cases, additional elements, consisting of practical questions or the second or third grade examination, are included.

*Form No. 39. Application for accrued leave of absence (English only).—*To be filed by the officer or employee two weeks in advance, wherever possible, of the date on which the accrued leave requested is desired to become effective. The first indorsement on this form, containing a statement of any absences not previously reported to the Bureau of Civil Service on monthly report on Form No. 3, should be completely filled by the head of the bureau or office and the application promptly forwarded to the Bureau of Civil Service.

*Form No. 41. Medical certificate (English only).—*When an officer or employee applies for further leave of absence on account of wounds or injuries incurred in the performance of duty, extending beyond the allowable vacation leave, the application must always be accompanied by Form No. 41, completely executed by the physician or physicians who were in actual attendance upon the applicant for the whole of the period or periods for which the extension of vacation leave on account of wounds or injuries is requested, and also by evidence showing that the wounds or injuries were incurred in the performance of duty. (See sec. 3, par. e, Civil Service Rule XVI.)

Form No. 41 must also accompany every application made under paragraph c, section 4, act No. 1040, for payment for leave on account of illness in advance of the date on which payment for such leave may properly be made under the provisions of section 2 or 3 of that act. (See sec. 3, par. c, and secs. 5 and 9, Civil Service Rule XVI.) Form No. 41 must also accompany every application for vacation leave covering absence immediately preceding death. (See par. b, sec. 2, Civil Service Rule XVI.)

*Form No. 47. Application for examination—supplementary certificate for professional, scientific, or technical positions (English only).—*To be filed by all applicants for examination with a view to appointment to professional, scientific, or technical positions, as a supplement to Form No. 2, which must also be filed by them.

*Form No. 48. Daily time record.—*Section 3 of Civil Service Rule XV provides that each head of a Bureau or Office shall require a daily record of attendance to be kept on this form of all officers and employees (including teachers) under him who are entitled to leave of absence or vacation, except those serving in the field or on the water. By direction of the governor-general, time records in Manila will be kept on a time clock, or in offices having no time clock, by time clerks, and not by individual employees. The officer or employee in charge will

verify the correctness of these records and forward them to the chief of the Bureau or Office, who will use them as a basis for rating punctuality and attendance in the semiannual efficiency report on Form No. 54. The daily time record on Form No. 48 will not be transmitted to the Bureau of Civil Service except upon request therefor.

Form No. 52. Efficiency record of employees.—To be compiled by the chief of bureau, chief of division, or other designated officer or employee, in accordance with the provisions of section 4, Civil Service Rule IX. This form will be retained in the Bureau or Office as a permanent office record.

Form No. 54. Semiannual efficiency report.—To be compiled from data obtained from Forms 48 and 52 and forwarded to the Bureau of Civil Service on the first day of January and July, in accordance with the provisions of section 4 of Civil Service Rule IX, giving the efficiency ratings for the preceding six months. The provincial board will render a consolidated report for the entire province, all provincial employees under the governor, treasurer, supervisor, fiscal, secretary, and register of deeds being included in one report. Each of the judges of the Courts of First Instance will render one report for his district, including therein all employees under him.

Form No. 55. Application for vacation leave of absence (English only).—All applications for vacation leave of absence for a period of one full day or more must be made on this form five days in advance wherever possible; if application was not made in advance, a brief explanation must be given on the form of the cause of the delay and a statement of whether or not notice of absence was immediately sent to the head of the Bureau or Office. Application for more than two days must be immediately transmitted to the Bureau of Civil Service by the head of the Bureau or Office, the first indorsement being carefully completed by him; if there are no unreported absences, that fact must be stated in the indorsement, and if application was not made in advance the date of the receipt of notice of absence must also be given. Applications for two days or less may be retained by the head of any Bureau or Office, if so preferred by him, and forwarded to the Bureau of Civil Service on the first day of the following month as inclosures to monthly report on Form No. 3; when forwarded with Form No. 3 the first indorsement on Form No. 55 need not be completed, but the absence must be entered on Form No. 3 as usual. If Form No. 55 is not retained for the purpose of forwarding as an inclosure to Form No. 3, the first indorsement must be completed by the head of the Bureau or Office and the application transmitted to the Bureau of Civil Service as in the case of an application for more than two days.

NOTE.—The above forms are furnished by the Bureau of Civil Service on request, and should always be ordered by form number. Provincial officers should telegraph their orders when necessary.

OPINIONS OF THE ATTORNEY-GENERAL.

An officer or employee who is separated from the service for cause loses all rights to leave of absence.

Under sections 2 and 3 of Act No. 1040 the granting of leaves of absence * * * presupposes that the employee's service has been satisfactory. When an official has been separated from the service for "cause" he has evidently not rendered satisfactory service, and consequently loses all his rights to any leave. (Opinion of Apr. 14, 1904; 382-A.)

Municipal treasurers acting as deputy provincial treasurers are not entitled to leave of absence under the provisions of Act No. 1040.

Municipal treasurers acting as deputy provincial treasurers are not entitled to leave of absence under Act No. 1040. Subsection *c* of section 1 of Act No. 999 provides "the municipal treasurer may also act as a deputy of the provincial treasurer and receive such additional compensation therefor, to be paid from the provincial funds, as the provincial board may fix and the treasurer of the Philippine Islands approve, anything in existing laws to the contrary notwithstanding."

Under this section a municipal treasurer who is acting as deputy to the provincial treasurer is employed both by the municipality and the province and

receives pay from both, devoting a part of his time to his municipal office and a part to his provincial office. Such being the case, there are two reasons why he should not be granted leave of absence under Act No. 1040. In the first place, it is very doubtful if such an employee works for the province the number of hours required by section 1 of Act No. 1040. In the second place, I think that the spirit of subsection *f* of section 2 of Act No. 1040 would apply, which provides that persons who receive compensation for official duties performed in connection with private business, such duties requiring only a portion of their time, shall not be entitled to leave.

Although it can not be said that the position of municipal treasurer is strictly private business, yet this position is the employee's regular employment, and his duties as deputy provincial treasurer are performed in connection with it. In other words, the important position is that of municipal treasurer, and afterwards that of provincial deputy. (Opinion of Sept. 7, 1904; 987.)

The provincial board may suspend a municipal treasurer pending the investigation of charges against him, and may remove such treasurer without the approval of the civil governor.

Act No. 999 vests in the provincial board the power to remove a municipal treasurer without the approval of the civil governor. Therefore, section 7 of Act No. 83, conferring the power on the provincial governor to hear complaints made against the conduct of the executive officers of a municipality, and "to take suitable action thereon either by dismissing the complaints, by suspending the official and transmitting the charges to the Commission, or by directing the provincial fiscal to bring a criminal or civil suit," etc., and the provisions of section 1 of Act No. 314, relating to the method of procedure in cases of suspended municipal officials, must be held not to apply to municipal treasurers in view of the above-quoted provision of Act No. 999.

Since the power to suspend a municipal treasurer is not vested by express provision of law in any official or body, and since it is incident to the power to remove, it is my opinion that the suspension of a municipal treasurer, pending the investigation of charges against him, should be made by the provincial board. (Opinion of February 14, 1905; 8478.)

Elective officers are not entitled to leave of absence under the provisions of Act No. 1040.

In my judgment, elective provincial officers are not entitled to leave under the civil-service or leaves of absence acts. Act No. 5, entitled "An act for the establishment and maintenance of an efficient and honest civil service in the Philippine Islands," section 5, as originally passed, contains the provision that said act "shall apply * * * to all appointments of civilians to executive positions;" and said section of said act, as amended July 16, 1901, November 29, 1901, and January 9, 1903, contains the provision that the act "shall apply * * * to all appointments of civilians in the bureaus and offices of the government of the Philippine Islands;" and the other sections of said Act No. 5, as originally passed and as subsequently amended, refer in many places to the entry of persons into the civil service by appointment, and nowhere to such entry by election.

Act No. 80 is entitled "An act regulating the hours of labor, leaves of absence, and transportation of appointees under the Philippine civil service," and relates to "employees" in the "offices in the Philippine civil service;" and the same is true of said act as amended on January 28, 1902, August 30, 1902, November 11, 1902, February 27, 1903, April 7, 1903, and May 18, 1903. Act No. 1040, repealing Act No. 80 and all acts amendatory thereof, and entitled "An act regulating the hours of labor, leaves of absence, and transportation of officers and employees in the Philippine civil service" * * * expressly provides in subsection *a* of section 2 thereof that "accrued leave of absence" shall be granted "each regularly and permanently appointed officer or employee in the civil service, insular or provincial, or of the city of Manila, except as herein-after provided;" and the other sections and subsections of said Act No. 1040 refer in many places to the persons to whom said act applies as being those who have entered the service by appointment. Elective officers are not referred to in any of the acts above mentioned, either as originally passed or as amended, in any way. I am therefore of the opinion that (to quote from subsection *g* of section 2 of Act No. 1040) "officers and employees of the Philippine civil service, whether serving as such by regular appointment or by detail from the Army, the Navy, or the civil service of the United States," and no other persons, are entitled to leaves of absence under said acts. (Opinion of Feb. 6, 1904; 3243-1.)

A person reinstated to the Philippine civil service can not be allowed vacation leave under the provisions of Act No. 1040 prior to the expiration of six months from the date of his reinstatement.

Section 3 of Act No. 1040 provides in part: "After at least six months' continuous, faithful, and satisfactory service, the civil governor or proper head of a department may, in his discretion, grant each officer or employee entitled to the accrued leave provided in section 2 of this act, in addition to such accrued leave, vacation leave of absence with full pay."

Under the provisions of this section, six months' continuous service is plainly a condition precedent to the granting of any vacation leave. In the present case the employee resigned and thereby severed all his relations with the government. This constitutes a distinct break in his services. Therefore he has not rendered six months' continuous service, and no vacation leave can be properly granted him until he has done so.

Subsection c of section 4 of Act No. 1040 provides in part: "Payment of salary to an officer or employee for any absence during his first six months of service, properly chargeable to vacation leave * * * shall be withheld until such leave may properly be taken under the provisions of section two or three of this act."

According to this subsection, payment for vacation leave shall be withheld until the leave may be properly taken under the above-quoted section 3 of Act No. 1040. As previously stated, the employee in question can not properly take vacation leave until six months after his reinstatement. Therefore, in accordance with the provisions of said subsection c of section 4, payment must be withheld for the vacation leave taken by a duly reinstated employee until six months after his reinstatement. (Opinion of Mar. 27, 1905; 5647-A.)

When the resignation of an employee before the expiration of two years' service is accepted on account of illness, or other cause, no accrued or vacation leave can be allowed, nor can a proportional part of traveling expenses and half salary en route to the islands from the United States be paid.

Vacation leave is granted to employees for the purpose of allowing them to recuperate, and always presupposes that the employee is still in the government service. Likewise, the phrase "in cases of resignation, vacation leave shall not be allowed in addition to accrued leave" is a general statement, and as it is nowhere modified it covers all cases. Therefore, vacation leave can never be granted on resignation. This, however, does not mean that an employee who has been ill may not charge absences from duty prior to his resignation to vacation leave.

In regard to accrued leave, paragraph a, section 2, of Act No. 1040 makes two years' continuous, satisfactory service, a condition precedent to the granting of any accrued leave, but paragraph c of section 4 of the same act modifies this condition to the extent that in case of absence during his first two years' service due to illness, etc., the civil governor or proper head of a department may direct that salary due from such accrued leave need not be withheld. This covers only those cases in which the employee overstays his vacation leave from illness. It is intended as maintenance to an employee who is still in the service, but does not provide for commuting leave on resignation for any cause. I am, therefore, of the opinion that accrued leave can not be granted before two years' service.

Section 9, paragraph a, of act No. 1040 makes it an absolute condition that traveling expenses borne by an employee shall not be refunded until after two years of service. There is no provision in the law for any proportional payment of any kind. I am therefore of the opinion that such a proportional part of traveling expenses and half salary provided by paragraphs a and b of section 9 of Act No. 1040 can not be paid to persons who have served less than two years, no matter what the reason for their resignation. (Opinion of June 30, 1904; 3235.)

The thirty days on half pay granted on resignation after three years' service begins at the end of accrued leave allowed, and leave does not accrue on such thirty days. Leave of absence on half pay for sixty days allowed in connection with leave of absence to visit the United States, begins at the expiration of the accrued and vacation leave granted.

In a case where an employee has rendered continuous, faithful, and satisfactory service for three or more years after arrival in the Philippine Islands resigns, and in addition to his regular leave is granted thirty days on half pay while going to the United States, does leave accumulate on said thirty days?

It has been held by the civil service board, and approved by the civil governor, that leave does not accrue on such thirty days.

Do the thirty days above mentioned begin prior to or at the end of accrued leave?

It has also been decided in the same manner as the first question, that such leave begins at the end of the accrued leave.

The further question is raised by the letter of the auditor of August 22, inclosed herein, as to when the sixty days allowed by section 2, paragraph e, of Act No. 1040 should be charged.

It has also apparently been held by the civil service board, and approved by the governor, that said sixty days are allowed at the end of vacation and accrued leave. It is my opinion that all of these rulings are final and are supported by the spirit and letter of the law; hence there is no need for a further discussion of same. (Opinion of Oct. 20, 1904; 3258.)

An employee appointed in the United States under the provisions of Act No. 1040 does not earn accrued leave during the period of travel from San Francisco to Manila.

The question submitted in the within papers is as follows: Does an employee appointed in the United States under the provisions of Act No. 1040 earn accrued leave during the period of travel from San Francisco to Manila?

As a general rule, all employees from the United States are provisionally appointed there and their appointment made final upon arriving in the islands. The exact facts are not set out in the within paper, but it is presumed that such is the present case. Paragraph a of section 2 of Act No. 1040 provides that "permanently" appointed employees are entitled to accrued leave. Until the employee arrives in the islands he is not such a permanent employee, but is a provisional employee. Therefore, under the provisions of this section the employee would not be entitled to have accrued leave while en route from San Francisco to Manila.

Also section 5 of Rule V provides: "If the eligible was provisionally appointed in the United States, his regular appointment will be effective the day following the date of his actual landing in the Philippine Islands, provided he reports immediately at the office of the board, and leave shall not accrue prior to date of regular appointment." These rules were promulgated by the governor-general and within their scope are binding on all officials.

As the above section, in accordance with the provisions of Act No. 1040, provides that leave does not accrue until after a regular appointment in the islands, no leave should accumulate while the employee is en route. (Opinion of Mar. 23, 1905.)

Natives of the Philippine Islands who are granted leave under the provisions of Act No. 1040 for the purpose of visiting the United States after three years' service are not entitled under that act to payment by the government of return traveling expenses.

Paragraph e, section 2, of Act No. 1040, while providing in general terms for leave with permission to visit the United States, is limited, in its last sentence, to those employees who have a residence in the United States. It is the purpose of this section to allow those employees who are citizens of the United States to visit their homes and families, especial privileges being granted for this purpose. This is more clearly shown by the fact that such traveling expenses would not be paid to any employee who chose to spend his leave in any other place than the United States. Likewise, it would be impossible to fix from what place such traveling expenses would be allowed, inasmuch as there is no residence in the United States. Therefore, those employees named under paragraphs b and c, section 28 of Act 5, are not entitled to the privilege granted in the last sentence of paragraph e, section 2, of Act No. 1040. (Opinion of Aug. 8, 1904; 3274.)

Payment for leave of absence of an officer or employee who has served in more than one bureau or office during the period for which leave is allowed should be made for the entire leave taken from the funds of the bureau or office in which he is serving at the time the leave is granted.

I have the honor to acknowledge receipt of the inclosed papers relating to the commutation of the accrued leave of George N. Hurd, assistant attorney in this office. Unquestionably in equity the greater part of this accrued leave should be paid by the city of Manila, in whose service Mr. Hurd was at the time the same was earned. However, the provisions of Act No. 1040 and the uniform ruling of the auditor's office would seem to require that the same be paid by the

bureau of justice. Act No. 1040, section 6, specifically provides that upon the resignation or death of an officer or employee, payment for the accrued leave shall be made from the salary appropriated for the position last filled by him. It is true that Mr. Hurd is still living, and has not resigned, but in all reason this accrued leave should come from the same fund as in the case of his death or resignation.

In this connection attention is called to the fact that at the time of the passage of Act No. 1040 the recorder of the Commission was instructed to prepare an act providing that accrued leave should be paid pro rata by the departments where the same was earned. This bill was prepared, but at the earnest solicitation of the auditor and of the chairman of the civil service board it was abandoned.

The reasons stated by the civil service board for its objection to the proposed measure were as follows: "The board concurs with the auditor in opposing a pro rata division of leaves, believing with him that upon the transfer of an officer or employee all obligations in the way of leaves of absence should be assumed by the bureau, province, or city to which transfer is made. As stated by the auditor, payments of salary on account of leave would eventually be approximately equalized, and the assuming of all obligations for leave by the bureau, province, or city to which transfer is made would tend to prevent transfers except where the transfer is made on account of the special fitness of the officer or employee for the position to be filled."

The uniform rulings of the civil-service board and of the auditor since the passage of Act No. 1040, so far as I have been able to obtain them, have been to require the bureau in which the applicant is employed at the time the leave is granted to pay the same. This ruling is manifestly in accordance with the law, and it would seem that even if the law did not require it that it would be inequitable at this date to change it, and that less injustice would be done by following the ruling than by abandoning it.

I am therefore of the opinion that the accrued leave of Mr. Hurd should be paid by the bureau of justice. (Opinion of June 19, 1905. Concurred in by the acting auditor, June 23, 1905; 5133-A.)

The civil-service board has authority to require eligibility in an appropriate examination as a condition precedent to increase in salary of a classified employee without an examination status.

Section 4 of Act No. 5 provides in part: "The board shall prepare rules adapted to carry out the purpose of this act," etc.

"Paragraph e of section 6 of Act No. 5 as amended provides: 'The rules to be prepared and certified by the board shall provide * * * for competitive or noncompetitive promotion examinations, as the board shall determine.'

"In pursuance of said section 4 the rules of the civil-service board have been promulgated annually since 1901. Section 1 of said rules says: 'The board shall have authority to prescribe such regulations in pursuance of and in execution of these rules and of the civil-service act as may not be inconsistent therewith.'"

The distinction, therefore, must be clearly kept in mind between the rules to be prepared by the board and promulgated by the governor-general under the authority of Act No. 5, and the regulations to be prepared and promulgated by the civil-service board under authority of the rules. In raising this question the distinction between the "rules" and "regulations" was confused, and I think this is responsible for the difficulty. The exact language used was as follows: "A question arises whether the board has lawful authority to impose any promotion test pending the adoption of the regulations authorized by section 6, paragraph e, supra, of the civil-service act. The power to adopt promotion regulations is especially conferred by the section and paragraph quoted. But what law authorizes the board to exact promotion tests pending the adoption of such regulations? Is this not exercising a power before it accrues?"

Or, in other words, the adoption of the regulations mentioned is a condition precedent to any promotion test.

However, said paragraph e, section 6, does not provide for the promulgation of regulations, but for the promulgation of rules. Section 6 of Rule IX was so promulgated, and provides:

"Until the promotion regulations herein authorized have been promulgated by the board for any department, bureau, office, or branch of the service, and the board has notified such department, bureau, office, or branch of the service that it is prepared to conduct the promotion examinations authorized under the civil-service act and rules, promotions therein may be made upon any

tests of fitness not disapproved by the board which may be determined upon by the appointing officer: *Provided*, That pending the adoption of such regulations, in case of proposed promotion from one class to another class of an employee who has not entered the service through the examination prescribed for the class to which promotion is proposed, such employee shall be required to obtain an eligible rating in such prescribed examination taken noncompetitively, and the appointment by promotion thus made shall not become effective prior to the date of taking the examination in which an eligible rating is obtained."

Under this section, the governor-general has specifically authorized the civil-service board to hold noncompetitive examinations for promotion from one class to another of employees who enter the service without examination, and did not place any condition precedent upon this authority. The board then had authority to act immediately upon the promulgation of the rule regardless of regulations. The regulations referred to in said rule are not such a condition precedent and have apparently been confused with the rule itself.

I am therefore of the opinion that the civil-service board clearly has the authority to exact a promotion test from an employee who entered the service without examination before that employee may be promoted in salary. (Opinion of May 26, 1905; 2058.)

RESOLUTIONS OF THE PHILIPPINE COMMISSION.

An employee must have served three full years or more, irrespective of any accrued leave that may be due him, before becoming entitled to the privileges of subsection (d), section 9 of Act No. 1040.

The true construction of paragraph 4 of section 4 of Act No. 80, as amended [now subsection (d), section 9 of Act No. 1040], requires that an employee in the Philippine civil service must have served three full years or more after the passage of the civil service act, irrespective of the time of his accrued leave of absence, before he becomes entitled to be furnished with transportation from Manila to San Francisco and half salary for thirty days in addition to full salary for the period to which he may be entitled as leave of absence. (Resolution of November 10, 1903; 4069.)

Special attention is called to the requirement that officers and employees obtain permission before engaging in business or commercial enterprises or occupations.

The question of uniform procedure in the various bureaus in regard to paragraphs 5 and 6 of Civil Service Rule XII was presented to the Commission. It appeared that in some departments no requests for permission to engage in business or commercial enterprises or occupations had been received, while in other of the executive departments such requests had been presented. It appeared to be desirable that there should be a uniform course of procedure in all of the bureaus and departments, and that the matter ought to be called to the attention of civil service officers and employees in order that they may keep themselves within the limits of the law. It was therefore, on motion, resolved that the Philippine civil service board be requested by circular to call the special attention of all chiefs of bureaus and officers and employees within the classified civil service to the rule in question and to the necessity of compliance therewith. (Resolution of November 23, 1904; 5751.)

The estate of an employee who dies prior to two years' service, but after the expiration of six months' service, may be allowed accrued leave.

When a regularly appointed official or employee of the Philippine civil service, who has rendered faithful and satisfactory service for more than six months and less than two years, shall die while in the service, the unused accrued leave which might have been granted to him after the expiration of two years' service may, in the discretion of the civil governor or proper head of department, be allowed to his estate for such unused accrued leave as has not already been enjoyed by the deceased during his illness, notwithstanding he has not served two full years. (Resolution of November 29, 1904; 1415.)

Transportation due under subsection (d), section 9 of Act No. 1040, must be used within six months after date of separation from the service or it is forfeited; if an employee desires to return to the United States via Europe, commutation of the value of such transportation may be made.

By the provisions of Act No. 80 it was not contemplated that an employee of the civil government who had rendered faithful and continuous service for three years or more should be permitted to commute his transportation in the event that he did not intend to return to the United States, but that he was to receive passage in kind. Act No. 1040 permits him to receive the cost of transportation by any other route to the extent that it would cost the Government to furnish him direct transportation from Manila to San Francisco. As it is desirable to establish a fixed rule as to the time within which applications for return transportation may be made, it is hereby directed that such applications must be filed within six months after the resignation of the employee entitled to such transportation. In the event the officer or employee resigning after service of three years or more desires to return to the United States via Europe, the executive secretary is authorized to make arrangements for his transportation upon the payment by the officer or employee concerned of the difference between the cost of transportation which would have to be furnished by the insular government from Manila to San Francisco and the cost of the transportation by the desired route. (Resolution of February 14, 1905; 4622.)

Except in cases of separation from the service leave of absence shall not be commuted to an officer or employee who remains in the islands during the period of his leave, and in case an officer or employee has had commutation of his leave and desires to return to duty before the expiration of such leave, he must first refund the money value of the leave which has not been used.

In the opinion of the Commission the provision of Act No. 1225, permitting the governor-general or proper head of department, in his discretion, to commute two or more years' leave of absence to persons entitled thereto, or any similar provision which may hereafter be enacted, should not be construed to authorize the payment in any case of such commutation to an officer or employee who remains in the islands during the period of his leave.

No officer or employee who is granted leave of absence and has the same commuted shall be allowed to return to duty prior to the expiration of the leave which has been commuted without refunding to the proper disbursing officer the money value of the unused portion of such commuted leave of absence. (Resolution of March 3, 1905; 3560-A.)

When it becomes necessary to employ aliens in classified or unclassified positions, such persons should be considered as temporary employees and therefore not entitled to leave under Act No. 1040.

When the needs of the service require the employment of aliens in classified positions, temporary employment will be authorized by the Civil Service Board under the provisions of paragraph (p), section 6, of the civil-service act. If it is necessary to employ aliens in unclassified positions they should be regarded as temporary employees also, and should not be given regular appointment. Temporary employment does not carry with it the benefits and privileges of Act No. 1040. (Resolution of April 28, 1905; 3031.)

Where regularly appointed employees are separated from the service because of lack of work or abolishment of their positions, even though they may not have completed two years' service, as required by Act No. 1040, they shall be entitled to accrued leave for the time served.

It is the sense of the Commission that where a regularly appointed employee of the permanent service is separated therefrom because of lack of work or the abolishment of his position, and through no fault of his own, he should be allowed such accrued leave as he may have earned for the time served, calculated on the basis of the leave allowed by Act No. 1040, even though he may not have completed two years' service at the time of his separation. (Resolution of December 7, 1905; 8920.)

Original appointments or promotions dependent upon an appropriation act shall not be made effective prior to the date of passage of the appropriation act; save in exceptional cases, appointments and promotions shall not be retroactive.

In all cases in which the salary of a position is increased or a new position created by an appropriation act, appointment to such new position or increased salary shall not be of date prior to the date of the passage of the appropriation

act, or such other date as may have been fixed specifically by law or resolution of the Philippine Commission for the increase in salary or the creation of the new position, as the case may be.

Aside from exceptional cases, appointment shall not be effective as of date prior to that upon which the appointment or promotion is actually made. (Resolution of July 27, 1906; 11953.)

EXAMINATIONS AND APPOINTMENTS.

Table showing the results of all examinations (noneducational excepted) held by the bureau of civil service during the year ended June 30, 1906.^a

Examinations.	For original appointment.			For promotion or transfer.			Total.		
	Number examined.	Number passed.	Per cent passed.	Number examined.	Number passed.	Per cent passed.	Number examined.	Number passed.	Per cent passed.
HELD IN MANILA.									
(1) Apprentice.....	109	20	18	.....	.....	.....	109	20	18
(2) Aprendiz.....	32	6	19	.....	.....	.....	32	6	19
(3) Assistant.....	1	1	100	21	11	52	22	12	55
(4) Bookkeeper.....	13	6	46	3	.....	.....	16	6	38
(5) Tenedor de libros.....	2	.....	.....	4	2	50	6	2	33
(6) Clerk of court.....	1	.....	.....	.....	.....	.....	1	.....	.....
(7) Escribano.....	8	.....	.....	4	.....	.....	12	.....	.....
(8) Clerk, first grade.....	191	83	43	64	19	30	255	102	40
(9) Primer grado.....	34	2	6	17	4	24	51	6	12
(10) Clerk, second grade.....	482	105	22	104	18	17	586	123	21
(11) Segundo grado.....	298	121	41	50	19	32	357	140	39
(12) Clerk, third grade.....	459	108	24	18	1	6	477	109	23
(13) Tercer grado.....	251	120	51	14	6	43	265	135	51
(14) Compositor, junior.....	2	1	50	.....	.....	.....	2	1	50
(15) Cajista auxiliar.....	4	2	50	.....	.....	.....	4	2	50
(16) Draftsman, junior topographic.....	8	.....	.....	.....	.....	.....	8	.....	.....
(17) Delineante topográfico auxiliar.....	10	3	30	.....	.....	.....	10	3	30
(18) Delineante arquitectónico auxiliar.....	6	.....	.....	.....	.....	.....	6	.....	.....
(19) Delineante mecánico auxiliar.....	1	1	100	.....	.....	.....	1	1	100
(20) Engineer, chief.....	5	3	60	.....	.....	.....	5	3	60
(21) Maquinista.....	1	.....	.....	.....	.....	.....	1	.....	.....
(22) Engineer, civil.....	4	3	75	.....	.....	.....	4	3	75
(23) Ethnologist, assistant.....	.....	.....	.....	1	1	100	1	1	100
(24) Fireman, first class.....	31	26	84	.....	.....	.....	31	26	84
(25) Forester.....	1	1	100	.....	.....	.....	1	1	100
(26) Hospital attendant.....	15	11	73	.....	.....	.....	15	11	73
(27) Inoculator.....	2	.....	.....	.....	.....	.....	2	.....	.....
(28) Inspector of sanitation.....	1	1	100	.....	.....	.....	1	1	100
(29) Inspector, street.....	.....	.....	.....	1	1	100	1	1	100
(30) Interpreter.....	3	1	33	1	1	100	4	2	50
(31) Interpreter, junior.....	17	9	53	6	2	33	23	11	48
(32) Intérprete auxiliar.....	3	1	33	.....	.....	.....	3	1	33
(33) Nurse, trained.....	2	2	100	.....	.....	.....	2	2	100
(34) Enfermera práctica.....	1	.....	.....	.....	.....	.....	1	.....	.....
(35) Patrolman, first class.....	21	21	100	.....	.....	.....	21	21	100
(36) Policía de tercera clase.....	90	48	53	.....	.....	.....	90	48	53
(37) Lieutenant, police.....	.....	.....	.....	13	9	69	13	9	69
(38) Captain, police.....	.....	.....	.....	3	3	100	3	3	100
(39) Prison guard.....	46	43	93	.....	.....	.....	46	43	93
(40) Guardia de prisión.....	59	33	56	.....	.....	.....	59	33	56
(41) Stenographer.....	11	3	27	4	1	25	15	4	27
(42) Taquígrafo.....	5	1	20	5	1	20	10	2	20
(43) Supply officer, bureau of constabulary.....	1	.....	.....	.....	.....	.....	1	.....	.....
(44) Surveyor.....	12	6	50	2	1	50	14	7	50
(45) Teacher.....	8	5	63	11	5	45	19	10	53
(46) Teacher of music.....	.....	.....	.....	1	1	100	1	1	100
(47) Translator.....	4	.....	.....	2	2	100	6	2	33
(48) Translator, junior.....	13	3	23	6	1	17	19	4	21
(49) Traductor auxiliar.....	3	.....	.....	.....	.....	.....	3	.....	.....
(50) Typewriter.....	12	6	50	3	2	67	15	8	53
(51) Escribiente & máquina.....	.....	.....	.....	1	.....	.....	1	.....	.....
(52) Typewriter, junior.....	2	.....	.....	1	.....	.....	3	.....	.....

^a This table does not include the teacher and Filipino teacher examinations held in June, 1906, as the rating of the papers of the competitors in these examinations has not been completed.

Table showing the results of all examinations (noneducational excepted) held by the bureau of civil service during the year ended June 30, 1906—Continued.

Examinations.	For original ap- pointment.			For promotion or transfer.			Total.		
	Number exam- ined.	Number passed.	Per cent passed.	Number exam- ined.	Number passed.	Per cent passed.	Number exam- ined.	Number passed.	Per cent passed.
HELD IN MANILA—continued.									
(37) Mecanógrafo auxiliar.....	18	2	11	6	2	33	24	4	17
(38) Veterinarian.....	1	1	100				1	1	100
(39) Cartero.....	10	3	30	1			11	3	27
(40) Encuadernador auxiliar.....	9	1	11				9	1	11
(41) Fotógrafo.....	1						1		
(42) Montero.....	5	1	20				5	1	20
(43) Observador de segunda clase.....	3	1	33	1	1	100	4	2	50
(44) Frensista auxiliar.....	1						1		
In Manila:									
English.....	1,478	469	32	265	79	30	1,743	548	31
Spanish.....	855	355	42	112	35	31	967	390	40
Total.....	2,333	824	35	377	114	30	2,710	938	35
HELD IN PROVINCES.									
(2) Assistant.....	2	1	50	115	62	54	117	63	54
(3) Bookkeeper.....	4	2	50	2	1	50	6	3	50
(4) Tenedor de libros.....	4			3			7		
(4) Clerk of court.....	1						1		
(4) Escribano.....	8	1	13	2			10	1	10
(5) Clerk, first grade.....	65	29	45	29	8	28	94	37	39
(5) Primer grade.....	26	5	19	29	4	14	55	9	16
(6) Clerk, second grade.....	424	57	13	34	3	9	458	60	13
(6) Segundo grado.....	344	164	48	130	50	38	474	214	45
(7) Clerk, third grade.....	499	86	17				499	86	17
(7) Tercer grado.....	438	190	43	15	9	60	453	199	44
(8) Compositor, junior.....	1						1		
(9) Delineante topográfico auxiliar.....	1	1	100	1			2	1	50
(10) Delineante arquitectónico auxiliar.....	2	1	50	1			3	1	33
(13) Engineer, civil.....	1						1		
(17) Hospital attendant.....	1	1	100				1	1	100
(21) Interpreter.....	1	1	100				1	1	100
(24) Patrolman, first class.....	1	1	100				1	1	100
(28) Prison guard.....	1	1	100				1	1	100
(31) Surveyor.....	3	3	100	2	2	100	5	5	100
(32) Teacher.....	29	7	24	59	26	44	88	33	38
(34) Translator.....	1			2	1	50	3	1	33
(35) Translator, junior.....	10			4			14		
(38) Veterinarian.....	1	1	100				1	1	100
(42) Ranger.....	4	2	50				4	2	50
(42) Montero.....	2	1	50				2	1	50
(45) Compositor.....	1						1		
(46) Field assistant in forestry.....	1						1		
(47) Teacher of domestic science.....	1			1	1	100	2	1	50
In provinces:									
English.....	1,052	192	18	248	104	42	1,300	296	23
Spanish.....	825	363	44	181	63	35	1,006	426	42
Total.....	1,877	555	30	429	167	39	2,306	722	31

Filipinos taking examinations in English during the year ended June 30, 1906. a

Examinations.	For original appointment.						For promotion or transfer.						Total.					
	Number examined.		Number passed.		Per cent passed.		Number examined.		Number passed.		Per cent passed.		Number examined.		Number passed.		Per cent passed.	
	Male.	Female.	Male.	Female.	Male.	Female.	Male.	Female.	Male.	Female.	Male.	Female.	Male.	Female.	Male.	Female.	Male.	Female.
HELD IN MANILA.																		
Apprentice.....	109		20		18		1						109		20		18	
Bookkeeper.....							1						1					
Clerk of court.....	1												1					
Clerk:																		
First grade.....	12						11				9		23		1		4	
Second grade.....	402	30	75	5	19	17	104		18		17		506	30	93	5	18	17
Third grade.....	438	21	107	1	24	5	18		1		6		456	21	108	1	24	5
Compositor, junior..	2		1		50								2		1		50	
Draftsman, junior																		
topographic.....	8												8					
Engineer, civil.....	2		1		50								2		1		50	
Interpreter.....	2						1		1		100		3		1		33	
Interpreter, junior..	16		8		50		6		2		33		22		10		45	
Lieutenant, police..							8		4		50		8		4		50	
Captain, police.....							1		1		100		1		1		100	
Surveyor.....	1												1					
Translator.....	1						1		1		100		2		1		50	
Translator, junior..	12		2		17		6				17		18		3		17	
Typewriter.....	1						1						2					
Typewriter, junior..	2						1						3					
Total in Manila...	1,009	51	214	6	21	12	159	...	30	...	19	...	1,168	51	244	6	21	12
HELD IN PROVINCES.																		
Bookkeeper.....							1						1					
Clerk:																		
First grade.....	23		2		9		13		1		8		36		3		8	
Second grade.....	379	41	50	5	13	12	34		3		9		413	41	53	5	13	12
Third grade.....	484	15	84	2	17	13							484	15	84	2	17	13
Compositor, junior..	1												1					
Engineer, civil.....	1												1					
Ranger.....	4		2		50								4		2		50	
Surveyor.....	1		1		100								1		1		100	
Translator.....	1						2		1		50		3		1		33	
Translator, junior..	8						4						12					
Total in provinces.....	902	56	139	7	15	13	54	...	5	...	9	...	956	56	144	7	15	13
Grand total.....	1,911	107	353	13	18	12	213	...	35	...	16	...	2,124	107	388	13	18	12

^a This table does not include the Filipino teacher examination held in June, 1906, as the rating of the papers of the competitors in this examination has not been completed.

Table showing the number of persons taking educational examinations (exclusive of the teacher and Filipino teacher examinations) during the years ended June 30, 1905, and June 30, 1906.

	For original appointment.			For promotion or transfer.			Total.		
	Number examined.	Number passed.	Per cent passed.	Number examined.	Number passed.	Per cent passed.	Number examined.	Number passed.	Per cent passed.
During the year 1904-5:									
Americans in English.....	892	519	58	306	162	53	1,198	681	57
Filipinos in English.....	1,497	295	20	256	73	29	1,753	368	21
In Spanish.....	3,043	1,356	45	512	151	29	3,555	1,507	42
Total.....	5,432	2,170	40	1,074	386	36	6,506	2,556	39
During the year 1905-6:									
Americans in English.....	474	283	60	228	115	50	702	398	57
Filipinos in English.....	2,018	366	18	213	35	16	2,231	401	18
In Spanish.....	1,680	718	43	293	98	33	1,973	816	41
Total.....	4,172	1,367	33	734	248	34	4,906	1,615	33

Total showing the number of persons taking educational examinations (exclusive of the teacher and Filipino teacher examinations), etc.—Continued.

RECAPITULATION OF EXAMINATIONS.

	For original appointment.			For promotion or transfer.			Total.		
	Number examined.	Number passed.	Per cent passed.	Number examined.	Number passed.	Per cent passed.	Number examined.	Number passed.	Per cent passed.
During the year:									
English.....	2,530	661	26	513	183	36	3,043	844	28
Spanish.....	1,680	718	43	293	98	33	1,973	816	41
Total.....	4,210	1,379	33	806	281	35	5,016	1,660	33
Previously examined:									
English.....	8,360	3,793	45	2,283	1,174	51	10,643	4,967	47
Spanish.....	11,706	5,504	47	1,810	755	42	13,516	6,259	46
Total.....	20,066	9,297	46	4,093	1,929	47	24,159	11,226	46
Total English.....	10,890	4,454	41	2,796	1,357	49	13,686	5,811	42
Total Spanish.....	13,386	6,222	46	2,103	853	41	15,489	7,075	46
Grand total.....	24,276	10,676	44	4,899	2,210	45	29,175	12,886	44

Appointments made in the Philippine classified civil service during the year ended June 30, 1906.

ON CERTIFICATION BY THE BUREAU OF CIVIL SERVICE.

Position.	English registers.		Spanish registers, Filipinos.	Total.
	Americans.	Filipinos.		
Apprentice.....		19	9	28
Assistant.....	1			1
Bookbinder, junior.....			3	3
Bookkeeper.....	1			1
Carriage painter.....			1	1
Chainman.....			1	1
Clerk:				
First grade.....	44	1		45
Second grade.....	4	43	105	152
Third grade.....		32	96	128
Compositor, junior.....		2	1	3
Customs guard.....			1	1
Electrotypist, junior.....			1	1
Engineer:				
Civil.....	1	1		2
Steam.....	1			1
Engineer of launch.....			1	1
Engineer of road roller.....	1			1
Fireman:				
First class.....	14			14
Second class.....			2	2
Foreman of laborers.....			2	2
Foreman of shops.....	1			1
Hospital attendant.....	6			6
Letter carrier.....			3	3
Light keeper.....			1	1
Machinist.....			1	1
Manager-operator.....	1			1
Master lineman.....	3			3
Master of cutter.....			1	1
Master of launch.....	1		1	2
Mate of launch.....	2			2
Messenger.....		5	10	15
Nurse, trained.....	1			1
Observer, second-class.....			1	1
Patrolman:				
First class.....	7			7
Third class.....			31	31
Pressman, junior.....			1	1
Prison guard:				
First class.....	7			7
Second class.....			24	24

Appointments made in the Philippine classified civil service during the year ended June 30, 1906—Continued.

ON CERTIFICATION BY THE BUREAU OF CIVIL SERVICE—Continued.

Position.	English registers.		Spanish registers, Filipinos.	Total.
	Americans.	Filipinos.		
Ranger.....		1	1	2
Stenographer.....	2			2
Superintendent of coal yard.....	1			1
Surveyor.....	2			2
Teacher.....	12			12
Filipino.....		57		57
Filipino, normal school graduate.....		12		12
Translator, junior.....		1		1
Typewriter.....	2			2
Typewriter, junior.....			1	1
Veterinarian.....	1			1
Watchman.....	2		1	3
Wheelwright.....	1			1
Total.....	119	174	300	593

APPOINTMENTS MADE THROUGH CHANGES IN THE CLASSIFIED SERVICE.

Promotion.....	1,025	111	933	2,069
Reduction.....	46	6	59	111
Transfer.....	220	19	226	465
Reinstatement.....	53	9	97	159
Total.....	1,344	145	1,315	2,804

APPOINTMENTS MADE IN THE UNITED STATES.

Position.	Number.
ORIGINAL.	
Accountant and clerk.....	2
Assistant.....	1
Chemist.....	2
Engineer, civil.....	5
Engineer, principal assistant.....	1
Field assistant in forestry.....	3
Nurseryman.....	1
Photoengraver.....	1
Pressman.....	1
Printer.....	2
Stenographer and typewriter.....	7
Surveyor.....	2
Teacher.....	106
Total original.....	134
BY TRANSFER.	
Clerk, chief.....	1
Draftsman.....	1
Forester.....	2
Proof reader and reviser.....	1
Teacher.....	2
Teacher of agriculture.....	1
Total by transfer.....	8
BY REINSTATEMENT.*	
Clerk.....	3
Inspector, medical.....	1
Nurse, trained.....	1
Stenographer and typewriter.....	1
Surveyor.....	1
Teacher.....	4
Veterinarian.....	1
Total by reinstatement.....	12
Grand total.....	154

* For purposes of comparison with preceding reports, it should be noted that heretofore appointments by reinstatement in the United States have not been included in this table.

Appointments made in the Philippine classified civil service during the year ended June 30, 1906—Continued.

RECAPITULATION OF APPOINTMENTS MADE IN THE PHILIPPINE CLASSIFIED CIVIL SERVICE.

Nature of appointment.	From English registers.	From Spanish registers.	Total.
During the year:			
Original, in Philippine Islands.....	293	300	593
Through changes in the service.....	1,489	1,315	2,804
Original, in the United States.....	134	.....	134
By transfer from United States classified civil service.....	8	.....	8
By reinstatement in the United States.....	12	.....	12
Total.....	1,936	1,615	3,551
Previously appointed.....	7,841	5,828	13,669
Grand total.....	9,777	7,443	17,220

Appointments made in the United States civil service in the Philippine Islands upon certification by the bureau of civil service during the fiscal year ended June 30, 1906.

Position.	Number.
ORIGINAL.	
Clerk.....	27
Engineer, chief.....	1
Extra observer.....	3
Mate.....	1
Messenger.....	14
Pack master.....	1
Special laborer.....	2
Storekeeper.....	1
Store man.....	1
Total original.....	51
By promotion, transfer, or reinstatement.....	14
Grand total.....	65

INDEX.

	Page.
Absence. (<i>See</i> Leave of absence.)	
Absolute appointment	29
Accumulation of leave, extent to which allowed	23
Act No. 5, providing for the establishment and maintenance of an efficient and honest civil service in the Philippine Islands	15
Act No. 25, providing for the appointment and removal of subordinate officers and employees	20
Act No. 102, regulating the salaries of officers and employees in the Philippine civil service, extract from	21
Act No. 392, authorizing the employment of persons at salaries lower than those for which appropriation is made and designating persons authorized to administer oaths for the bureau of civil service	22
Act No. 1040, regulating the hours of labor, leaves of absence, and transportation of officers and employees	22
Address, to be reported each month by officers or employees on leave of absence	38
Age limitations	16, 27
Aliens, employment of	47
Allowances on resignation after three years' service	25
Applicants:	
Not eligible to examination	26, 27
Qualifications of	26, 27
Application:	
For accrued leave of absence	40
For return transportation to Manila	39
For vacation leave of absence	41
Applications:	
For accrued leave of absence—	
In case of persons who resign	24
Procedure in making	24, 35
For examination	16, 26, 27, 38, 39, 40
For leave of absence, suspension of action on	37
For trades positions	27, 39
For vacation leave of absence, procedure in making	36
Appointment:	
Absolute—	
Defined	29
Failure to receive	29
And employment	16, 32
Declination of	29
Evidence of regularity of, prerequisite to payment of salary	32
Examination prerequisite to	27
Examination requirements relating to	38
Form required for	40
Of employees authorized at salaries lower than those for which appropriation is made	22
Of persons in the United States to the Philippine service, conditions of	25
Of subordinate officers and employees	20
Probationary	16, 28
Selection for, report of	39
Temporary. (<i>See</i> Temporary appointment.)	
Usually made to lowest class in grade	29
When preference is to be observed in	19, 28

Appointments:	Page.
In the Federal civil service in the islands.....	53
In violation of law and rules.....	17
Made in the United States—	
By reinstatement.....	52
By transfer.....	52
Original.....	52
Made in the islands—	
Through changes in the service.....	53
Upon certification.....	53
Not to be retroactive save in exceptional cases.....	47
Statistical information in regard to.....	7, 48, 49, 50, 51, 52, 53
Subject to approval of governor-general or heads of departments.....	20, 32
To the classified service, procedure in making.....	20, 29
Army, United States, persons detailed from, previous to passage of Act No. 1040, entitled to accrued leave.....	23
Assignment of unclassified employees to classified positions not per- missible.....	20, 35
Assignments within the classified service permissible.....	33
Attendance:	
Daily record of.....	15, 36
Form required for daily record of.....	40
Record of, to be kept by time clocks or time clerks where practicable.....	40
Auditor, insular, expense account to be filed with.....	38
Bureau of civil service:	
Authority of, to require promotion examinations.....	45
Officers of, how appointed.....	15
Required to decide whether a position is in the classified or unclas- sified service.....	17
Sixth Annual Report of.....	15
To prepare rules.....	15
To prescribe regulations and forms.....	26
Certification:	
By sexes.....	28
Examination papers to accompany.....	28
For temporary appointment.....	28
Form to be used in requesting.....	39
Methods of.....	28
Rule in regard to.....	28
Selection from.....	15, 28
Waiving, conditions of.....	29
Changes in extent of the classified service.....	12
Changes in grade or class for political or religious reasons forbidden.....	34
Changes in the service:	
Reports of—	
To be made monthly.....	17, 35
Form to be used in making.....	39
Citizenship, requirements as to.....	26
Civil service act.....	15
Appointments in violation of.....	17, 18
Enforcement of.....	20, 26
Offices included within provisions of.....	15
Purpose of.....	15
Civil service of the Philippine Islands, extent of.....	15, 19
Civil service rules.....	26
Approval and promulgation of.....	20, 26
Enforcement of.....	16
Preparation and certification of.....	15
Class, the term defined.....	26
Classification of all offices and employments provided for.....	15
Classified service:	
Appointment to, subject to examination.....	27
Assignment of unclassified employees to, not permissible.....	17, 32
Bureau of civil service required to decide what positions are in the.....	17
Extent of	15
Procedure in making appointments to.....	28, 29, 32
Rules applicable to.....	26

Classified service—Continued.	Page.
Transfers to, from unclassified service.....	30
What is meant by.....	26
Coercion, political, prohibited.....	18, 34
Commutation of accrued leave on resignation or death.....	24, 36
Conditions of the appointment of persons in the United States to the Philippine service.....	25
Contract between employee and government:	
Nature of.....	25
Reentrance into service when violated.....	25, 30
Contracts, special.....	25
Contributions, political, prohibited.....	18
Correspondence, official, relating to appointments in the classified service to be conducted through the bureau of civil service.....	29
Deduction from pay.....	20, 33
Definitions of terms used in civil service rules.....	26
Disbursing officers:	
To be furnished evidence of regularity of appointment.....	18, 32
When prohibited from paying salaries.....	17, 32
Disloyalty a disbarment from holding office.....	18
Disqualifications for examination or eligibility.....	18, 20, 26, 28
Efficiency:	
Considered in competitive examinations for promotion.....	16, 32
Record, forms required for.....	40
Record of, kept and reported to the bureau of civil service semi- annually.....	32
Report, semiannual, form required for.....	41
Scheme for rating.....	32
Eligibility:	
Period of.....	28
Suspension of—	
During absence from the islands.....	28
On enlistment.....	28
Eligible rating, what constitutes.....	28
Eligibles:	
Objection to, by appointing officers.....	28
Selection of.....	28
Temporary appointment of.....	29
With same rating.....	29
Emergency employees not entitled to benefits of leave of absence.....	23
Emergency employment, when authorized.....	29
Employees:	
Deceased, accrued leave of absence due.....	24
In the service before classification, status of.....	19
Official roster of officers and.....	15
On leave to report address monthly.....	38
Return transportation to the United States for, when furnished.....	25
Salary classification of.....	21
English, Filipinos taking examinations in.....	50
Enlisted men:	
Excepted from time requirements for reinstatements.....	30
How to proceed to secure an examination.....	26
In the Philippine civil service not entitled to leave.....	23
Examination:	
Disqualification for.....	18, 20, 26, 27
Papers, method of rating.....	28
Papers to accompany certification.....	28
Physical.....	16, 26
Prerequisite to appointment in the classified service.....	27
Requirements relating to appointment and promotion.....	38
Examinations:	
Classes of persons debarred from.....	26
Competitive, authority for holding.....	15, 16, 27
Dates and places of.....	16, 27
In English, number of Filipinos taking.....	50
In the United States.....	16, 27
Noncompetitive promotion.....	16, 27, 46

	Page.
Examinations—Continued.	
Noncompetitive, when they may be held	16, 27
Rule in regard to	27
Statistical information in regard to	48, 49, 50, 51, 52, 53
Transfer, when required	31
Examining committees:	
Appointment of	17, 27
Appointment of promotion	31
Exceptional cases, promotion in	32
Executive orders to be promulgated by the Governor-General, regulating the provisions of Act No. 1040	25
Experience considered in competitive examinations for promotion	16, 31
Federal civil service:	
Persons detailed from, prior to the passage of act No. 1040, entitled to accrued leave	23
Persons in, paid from insular funds	23
Transfers from	31
Transfers to	31
Filipinos:	
Preferred in appointment	19
Taking examinations in English	50
Fire service of Manila, members of, method of selection	16
Forms:	
Civil service, furnished on request	41
Prescribed by the bureau of civil service	26
The term defined	26
Frauds and penalties	18
Frequency of promotions, rule regulating	32
Grade, the term defined	26
Guards at prisons and penitentiaries	16
Half salary:	
En route from the United States not allowable on separation prior to expiration of two years' service	43
When granted	23, 25, 46
When it begins	43
When leave does not accrue thereon	43
Heated season, office hours during the	22, 35
Hours of labor:	
Act regulating	22
During the heated season	22, 35
May be extended	22, 35
Minimum	22, 35
Rule in regard to	35
Investigations, authority to make	17
Judges, act No. 1040 not applicable to	25
Laborers, semiskilled and unskilled:	
Employment of	20, 35, 39
Monthly reports concerning	35
Natives to be given preference as	35
Not entitled to benefits of leave of absence	23
Not to be assigned to classified positions	35
Oath of loyalty required of	35
Removal of	20, 35
Salaries of	38
Laws relating to the Philippine civil service	15
Leave of absence:	
Accrued—	
Accumulation of, extent to which allowed	23
Allowances in connection with, to visit the United States	23
Application for, to be made two weeks in advance	36, 41
Commutation of, on resignation or death	24, 36
Commutation of, not to be made if employee remains in the islands	47
Conditions under which granted	23
Excess vacation leave to be charged to, on separation	37
Form of application required for	40
How computed	36

Leave of absence—Continued.

Page.

Accrued—Continued.

In case of lack of work or abolishment of position.....	47
In case of death.....	24, 36, 46
Not allowable to teachers.....	23
Payment for, when withheld.....	24
Procedure in applying for.....	24
Schedule under which granted.....	24, 36
Time limit for filing applications in cases of persons who resign.....	24
Unused, money value of, must be refunded before return to duty, if commuted.....	47
When earned at different rates of compensation.....	36
When payment for, may be made in advance.....	36
Act regulating.....	22
Contingent upon necessities of the service.....	38
Does not accrue on half salary, when.....	43
During first two years' service in excess of vacation leave.....	37
Not allowable on separation for cause.....	41
Not allowable on separation prior to two years' service.....	37, 43
On account of illness—	
Evidence to be submitted.....	36, 37
How charged against regularly appointed employees.....	24
How charged against teachers.....	24, 37
Six months, separation after.....	24
When salary may be paid in cases of.....	24, 37
On account of wounds or injuries.....	24, 37
On Saturday, Sunday, or a holiday.....	38
Payment for, when employee has served in more than one bureau or office.....	44
Persons not entitled to.....	23
Record of, to be kept by heads of bureaus and offices.....	15, 36
Report of, to be made by heads of bureaus and offices.....	15, 36, 39
Rule governing.....	36
Unexplained, in the United States.....	38
Vacation.....	23
Application for, for two days or less.....	36
Application for, how made.....	24, 36
Application for, to be made five days in advance.....	36
Conditions under which granted.....	24
During first six months' service.....	24, 36
During first six months' service after reinstatement.....	43
Excess, to be charged to accrued leave of salary on separation.....	37
For teachers.....	23, 24, 37
Payment for, when withheld.....	37
Schedule under which granted.....	24
When salary changes during the year.....	36
When action may be suspended on applications for.....	38
Withholding of salary on account of.....	37
Without pay.....	24

Loyalty:

Evidence of, required.....	26
Oath of.....	18
Medical certificate.....	36, 37, 40
Morally unfit, exclusion of the.....	10
Municipal treasurers not entitled to leave of absence.....	41
Navy, United States, persons detailed from, previous to passage of Act No. 1040 entitled to accrued leave.....	23
Noncompetitive examinations:	
Authority to require, in case of promotion.....	32, 46
May be required for reinstatement.....	27
When required for promotion.....	27
When they may be held.....	16
Oath of loyalty required.....	18, 26
Oath of office, form required for.....	40
Oaths, persons authorized to administer.....	22
Objections to eligibles certified.....	28

Officers:	Page.
Elective, not entitled to leave of absence.....	42
Of Bureau of Civil Service, how appointed.....	15
The term defined.....	26
To aid in enforcement of civil-service rules.....	15
To facilitate examinations.....	16, 27
Opinions of the Attorney-General.....	41
Organization of Civil Service Board, change in.....	5
Overtime work.....	35
Penalties and prohibitions.....	18, 33, 34
Permission:	
Necessary to engage in private business.....	34, 46
Requisite to seek transfer.....	31
Physical examination.....	16, 26
Police service of Manila, members of, method of selection.....	16
Political action, coercion of, forbidden.....	18, 34
Political contributions prohibited.....	18
Political or religious opinions of applicants not to be disclosed.....	18, 34
Preference in appointment.....	19, 28
Private business in connection with public service.....	23, 34, 46
Probationary appointment.....	16
Probationer:	
Discharge of.....	29
Name of, may be restored to the register.....	29
Reduction of.....	29
Professional positions, method of filling vacancies in.....	15, 27, 29
Prohibitions and penalties.....	18, 33, 34
Promotion:	
Authority to require examinations for.....	31, 45
Examination requirements relating to.....	32
Examinations.....	16, 18
Examining committees.....	31
Experience and efficiency considered in competitive examinations for.....	16, 31
Frequency of.....	32
Noncompetitive examinations, when required for.....	16, 27
Not to be retroactive save in exceptional cases.....	47
Positions to be filled by.....	19
Recommendations for, by whom may not be made.....	32
Rule for.....	32
Salary limitations for, resulting from certain examinations.....	38
Suspension of action on.....	32
Vacancies to be filled by.....	19, 31
Provinces, examinations held in.....	49
Public buildings for examinations, authorization to use.....	17, 28
Recommendations:	
Disclosing political or religious opinions not to be considered.....	34
For promotion, by whom may not be made.....	32
Record:	
Daily time.....	35
Daily time—	
Form required for.....	40
To be kept on time clocks or by time clerks where practicable.....	40
Of attendance and absences.....	15, 36
Of efficiency of employees, kept and reported semiannually.....	32
Of efficiency of employees, forms required for.....	41
Of leaves of absence to be kept by heads of bureaus and offices.....	15, 41
Reductions:	
In salary, when allowed.....	20, 34
Of probationer.....	29
Of unclassified employees, reports to be made on.....	33
Procedure in.....	33
Reentrance to the service in case of violation of contract.....	25
Reinstatement:	
Eligibility for, to be considered in cases of resignation.....	33
Examinations for, when required.....	27
Form to be used in requesting.....	39
Of persons in the United States.....	30

Reinstatement—Continued.	Page.
Of persons separated from the service prior to the completion of contract.....	30
Rule governing.....	30
Salary limitation for.....	30
Time limitations for.....	30
Vacation leave not to be allowed until six months after.....	43
Religious opinions not to be disclosed by applicants.....	18, 34
Removal:	
Actions which render employees liable to.....	27, 34
Cause of, how to be published by officer.....	33
During probationary period.....	29
Of officers or employees for cause, procedure in.....	33, 34
Of officers or employees subject to approval of governor-general or Secretary of Department.....	20
Of unclassified employees, reports to be made on.....	33
Of unskilled laborers not subject to approval of governor-general or Secretary of Department.....	20
Report, efficiency, to be made semiannually to the Bureau of Civil Service.	32
Reports, monthly:	
Of changes in the service to be made to the Bureau of Civil Service.....	15, 33, 34, 39
Of laborers to be made to the Bureau of Civil Service.....	35
Resignation:	
Allowances on, after three years' service.....	25
Character of service to be stated on.....	33
Commutation of accrued leave on.....	24, 36
Procedure in cases of.....	33
Resolutions of the Philippine Commission.....	46
Restoration of probationer's name to the register.....	29
Retransfers to the classified service.....	31
Roster of officers and employees, official.....	15, 35
Rules, Civil Service. (See Civil-Service Rules.)	
Salary classification of employees.....	21
Salary equivalent of accrued leave due payable to estate on death.....	24, 46
Salary limitations, regulations relating to.....	39
Salary:	
To be withheld on violation of contract.....	25
When withheld on account of absence.....	24, 37
Withheld on account of appointment in violation of act and rules.....	17
Scientific positions, method of filling vacancies in.....	15, 29
Separation:	
After six months' leave of absence on account of illness, wounds, or injuries.....	24
For cause, leave not allowable on.....	41
On account of reduction in force.....	47
Prior to two years' service, leave not allowable on.....	37
Sex, when regarded in certification.....	28
Sick leave. (See Leave of absence on account of illness.)	
Skilled workmen, examinations for positions of.....	16, 27
Soldiers, sailors, and marines, discharged, preferred in appointment.....	19, 28
Spanish:	
Papers in cases of separation written in, to be translated.....	34
Translating, tests in.....	27
Special contracts.....	25
Special examiners.....	17, 27
Statistical information regarding examinations and appointments.....	48
Suspension:	
Of action on applications for leave.....	38
Of action on promotions.....	32
Without pay.....	10, 20, 32, 33
Teacher, position of, placed within the classified service.....	19
Teachers:	
Absence of, during school session.....	37
Absence of, on account of illness.....	37
Resignation of, when allowed.....	37
Vacation allowed on resignation.....	37

Teachers—Continued.	Page.
Vacation of, with permission to visit the United States.....	37
Vacation pay allowed to estate in case of death.....	37
Technical positions, method of filling vacancies in.....	15, 27, 29
Temporary appointment:	
Of eligibles.....	29
Of eligibles, certification for.....	28
Temporary employees:	
Not entitled to leave of absence.....	23
Subject to examination.....	19
Temporary employment:	
Authority for.....	16
For emergency.....	29
Restrictions upon.....	16
Trades positions, applications for.....	27
Transfers:	
Examination for.....	31
Form required for.....	31, 39
From the Federal classified civil service.....	16, 25, 31
Permission requisite to seek.....	31
Rule governing.....	31
To the Federal classified civil service.....	31
Within the Philippine civil service.....	16
Translating tests in Spanish and English.....	27
Translation to be made of papers written in Spanish in cases of separation.....	34
Transportation:	
Application for return to Manila.....	38
Cost of return, deposited with the Bureau of Insular Affairs.....	38
Time allowed for, when visiting the United States.....	23
When furnished to employees returning to the United States.....	46
Traveling expenses:	
Account of, to be filed with insular auditor.....	38
Act regulating.....	22
From the United States not allowable on separation prior to expiration of two years' service.....	44
From the United States not allowable to natives of the Philippine Islands returning from leave.....	44
When allowed.....	23
Treasurers, municipal, not entitled to leave of absence.....	41
Unclassified employees, reduction and removal of, reports to be made to the Bureau of Civil Service.....	33
Unclassified positions, designations of.....	19
Unclassified service:	
Assignments of employees in, to classified positions not permissible.....	32
Bureau of Civil Service required to decide what positions are in.....	15
Extent of.....	19
Rules applicable to.....	26
Transfers from, to classified service.....	31
United States Civil Service. (See Federal service).	
Vacancies:	
Filled by promotion.....	19, 31
Methods of filling.....	28
Vacation:	
Of teachers.....	23
When allowed teachers on resignation.....	37
Vacation leave of absence. (See Leave of absence.)	
Violation of contract, reentrance into service after.....	25
Violation of civil service law and rules.....	18
Withholding of salary:	
On account of absence.....	24
Work, temporary in character, authorization for employment in.....	30
Workmen, skilled, positions of.....	16, 27
Wounds or injuries, absence on account of.....	24, 37